



LITTLETON

A
MANUALL
OR
ANALECTA
*Formerly called the
Compleat Iustice.
the 6th Edition.*



COKE.

*Carefully and truly
corrected from y^e errors
misrecited Statutes
absurdities & contrarieties
which have passed in
former Impressions to the
great trouble, if not the
abuse of the Reader.*



CROMPTON



LAMBERT.

*London Printed
for W. L. and D. P.
1648*



DALTON



W. Marshall Sculp.





An Avertisement to the READER.



His Manuall formerly
(but vaine-gloriously, to
make it more saleable)
styled The Complete
Justice, was originally
collected for private use. But being lent
to a friend, some Copies thereof were ta-
ken, and comming through the hands of
some carelesse and ignorant transcribers,
through their haste and negligence (as it
seemeth) sometimes whole sentences,
sometimes whole lines were omitted, and
many grosse faults made, and by the often
transcribing multiplied, and afterwards
surreptitiously imprinted. For the sen-
tence in the Title page or Frontispice of
those bookes, doe intimate and import so
much, saying, *Multa conceduntur per
obliquum, quæ non conceduntur de
directo.*

And so being imprinted by a most
vitious Copy. An. 1637. and afterward
examined by the Originall, upon the first
light perusall thereof, there were noted

TO THE READER.

downe 628 errata, and many more upon a review.

This being made known to the Printers, some one was got to revise that Edition. But as it was an Herculean labor to cense Augæa's stable: so, it seemeth, it was to purge that first Edition. For in the second Impression, anno 1638. divers were left untouched, and new failers made: In so much, that the same being examined againe by the Originall, there were no fewer then 616 errata noted upon the first review: and many more afterwards discovered. A few of the last, for a taste; are here under expressed, and may serve for correction of those bookes.

Statutes misrecited.

<i>Pag</i>	<i>Linea</i>	<i>Errata</i>	<i>Correctiones.</i>
23	8	17. Eliz.	27. Eliz.
33	23	1. Ed. 6. 24.	2. Ed. 6. 24.
40	30	18. Eliz. 4.	8. Eliz. 4.
64	14	33. H. 8. 22.	12. Ed. 4. c. 9.
68	1	27. H. 8. c. 5.	27. H. 8. c. 24.
171	15	14. Eliz. 5.	1. Jac. 25.
174	23	13. Eliz. 28.	13. Eliz. 2.
180	20	32. H. 8. 5.	22 H. 8. c. 5.
ibid	28	23. Ed. 3.	25. Ed. 3.
220	22	3. Jac. 4.	1. Jac. c. 4.
225	29	42. Eliz. 39.	42. Ed. 3. c. 9.
261	9	1. Ed. 6. 2.	1. Ed. 3. c. 17.

Meer

TO THE READER.

Meer Contrarieties and Diversities.

<i>Pag.</i>	<i>lin.</i>	<i>Errata</i>	<i>Corrections.</i>
126	18	imprison for a yeare or more	imprison for a yeare or lesse
148	11	J. of P. may binde	J. of P. may bayle
195	13	Recusant excommuni- cated	Recusant not excom- municated
200	18	Where the Indictment is sufficient	Where the Indictment is insufficient.
206	9	It is good to raise the power of the Coun- ty	It is not good to raise the power of the county.
253	23	Toll-gatherer for him- selfe	Toll-gatherer for hor- ses.
12	14	Masters	Mistresse
	20	Masters	Mistresse
39	9	40 shillings	100. shillings

Absurdities.

<i>Pag.</i>	<i>lin.</i>	<i>Errata</i>	<i>Corrections.</i>
51	11	may binde threatners	may bind Cheators
76	4	assignment of a fine	assessement of a fine
90	9	Proclamation for the peace	proclamation for si- lence
97	27	Statute for the peace	Statute for the poore
110	3	without the Kings con- sent	without the owners consent
167	pē	tryers of infected per- sons	buryers of infected persons
228	13	without his Majesties licence	without his masters li- cence
274	26	one penny for a pound and an halfe	a penny for an hun- dred
	27	an halfe penny for alone pound	an halfe penny for halfe an hundred
276	29	selling barkē meete to be barked	selling Oakes meete to be barked.

TO THE READER.

And, whereas there cannot bee a greater fault in such a booke, then to lead Justices of Peace into an error, and for a single Justice of Peace to undertake that alone, wherein the assistance of two or more are required: Note that the power of more Justices then one is in above 60 places ascribed to one alone.

And further, the Reader is to be advertised, That the Quotations of Lambert, Crompton and Dalton in this Impression are referred to Lamb. 1619. Crompton to 1606. & Dalton to the Editions 1630. or 1635. either of which will serve indifferently.

But withall the Reader is to be admonished that neither of those two distinct and severall impressions of Dalton is truly paged.

For immediately after pag. 136. both of them retorne backe againe to 133. 134. 135. 136. and so continue an error of foure pages to pag. 276. And from pag. 276 the Edition of 1630. repeateth againe 273. 274. 275. 276. And the Edition of 1635. repeateth 277. 278. 279. 280. so that the first error varyeth foure pages, and the latter error in either of them differeth eight pages from the
true

TO THE READER.

true Notation of pages, and doe continue that error throughout to the end.

Therefore the falsity of those Pages must be rectified, before you can make due use of this Manuall, the same being reduced and quoted as the true Notation should be.

Note further that sentences and lines marked in the margent with Comma's are such as were not in the former Impressions : but some of them were omitted by the haste of the transcribers, and some collected after the lending of the Originall, and before the first printing of it.

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Faults in the Printing.

Page	Line	Errata	Corrections
4	25	Dal. 283.	deleatur
5	11	the towne	the country, towns
6	1	watermar thinner	waterman, labourer, &
15	3	Lam. 99. 106. 107.	Lam. 112.
18	13	a Justice	the Justices
28	8	6.	6.
	29	Ind. 300.	Ind. 300.
40	16	255.	259
43	8	111.	11
44	8	1. Ed. 6.	2. Ed. 6.
45	22	408.	416
	25	409. 197.	417. 167
47	41	before the conviction	before whom the conv.
51	17	but Jac.	but 1. Jac.
80	27	cap. 13.	cap. 3.
85	41	300.	308.
101	16	which is pounds	which is 3. pounds
117	7	5	deleatur.
134	12	pardon except	pardon of course except
144	8	Justice	Justices
147	18	lawfull pursuit	lawfull pursuit to ar- raigne a felon.
155	31	nu. 7.	nu. 1.
157	2	nu. 39.	nu. 30.
159	6	a Justice	Justices
172	24	550.	50
179	5	binde to the peace	binde to the peace or to his good behaviour
191	11. 16	319	315
192	7	4. shillings 4. pence	3. shill. 4. pence
200	18	161	ibid.
207	12	3. Jac.	7. Jac.
211	28	Justice	Justices
222	23	Justice	Justices
236	16	E. 3. b.	E. 3. c. 6.
244	8	Justices of Cro.	Justices of P. Cro.
247	23	pursued	sued
252	ult.	require	inquire
290	3	as	is
298	8	2. H. 7.	7. H. 7.
308	28	libell	libell



Abjuration.



He abjuration of a seditious
 "Sectary ought to be made in
 "open quarter Sessions of the
 "Peace, & there to be entred
 "of Record in the Rols of the
 "Sessions by the Clerk of the

"Peace, 33. *Eliz. cap. 1. & 2. Lamb. 615.*

Abjuration of a seditious Sectary made in
 open Qu. Sessions must be certified to the Ju-
 stices of Assise at the next Assises, 35. *El. c. 1.*
Lam. 590.

Justices of Peace cannot arraigne a man
 upon his abjuration for felonie, *Lam. 551.*

Vide plus Recusants.

Absolve, *Vide* Treason.

Accessory and Principall.

*Who shall be an accessory before
 the fact.*

1. Abetter, Procurer, or Consenter to a
 felony, *Dal. 292, 293. Cro. 41. a. nu. 1. Lam. 286,*
287, 288. Stamf. 44. a.

2. Commander of an evill act is accessory
 to the felonie proceeding thereof: as if
 death proceed of beating or robbing, *Lamb.*
286. Dal. 293. Cro. 43. a. nu. 34.

B

3. Com.

2 Accessary and Principall.

3. Commander of one felony, whereby another ensueth, is accessary to the second: as, *A.* commandeth *B.* to fire the house of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43. b. nu. 36.

4. Commander of a felony, though it be executed in another fashion, time, and place, or manner then was commanded, *Lam.* 286, 287. *Cro.* 42. a. nu. 14. *Dal.* 293.

“ 5. When a Statute ordaineth an act to be
“ treason or felony, which was not so at the
“ common law, & saith not, that the abettors,
“ aiders, comforters, or consenters shalbe fel-
“ lons, yet it shalbe felony in them, *Dal.* 292,
“ 297. *Lam.* 285.

who not.

The felony commanded is executed on another person, the commander is not accessary, *Lam.* 287, 288.

The commanded performing more then was commanded, committeth felony, the commander is not accessary, *Lam.* 287.

The commander of one felony to bee done to a man, is not accessary to another kind of felony committed against the said party: as, one counselled to poyson *A.* giveth it to *A.* and *B.* the counsellor is not accessary to the murder of *B.* *Lam.* 287, 288.

“ Commander or counsellor to a fact coun-
“ termandeth it before it be done, *Lamb.* 289.
“ *Dal.* 293. *Cro.* 42. a. nu. 16.

The knower of a felony without consenting, *Lamb.* 289. But such concealement is fineable. *Cro.* 41. b. nu. 8. *Dal.* 294.

One

Accessary and Principall. 3

One not party nor privie who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable, *Lam. 289. Dal. 291.*

Accessary after the fact.

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainder, *Crom. 41. a. nu. 1. Dalt. 294.*

Receiver or comforter of a felon with an evill intent, *Lam. 289. Dal. 294.*

Arrester of a felon by huy and cry taketh the goods, and letteth him goe, *Lam. 290.*

One pursuing a felon for his owne goods, taketh monie of him not to give evidence against him, whereby he is freed, *Lam. 290.*

Receiver or comforter of an accessary, knowing thereof, *Lam. 291. Dal. 297.*

Receiver of ones brother, knowing him to be a felon, *Lam. 291. Dal. 295.*

Receiver of an approver or one attainted, or outlawed of felony, knowing thereof, *Lam. 293.*

To harbour a felon attainted in the same County, *Cro. 43. a. nu. 31. Dal. 294.*

But *Lam. 293.* holdeth it reasonable that he first have knowledge of such a record.

Receiver of stollen goods, knowing them to be stollen, *Cro. 41. b. nu. 3.* many authorities remembred: but *42. a. nu. 17.* he saith, that he must receive the felon also. *Vide Cro. &c. Vide Crom. 42. b. nu. 23. & 43. b. nu. 37. Dalt. 295.*

4 Accessary and Principall.

Who not.

A sutor by word or writing for the deliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Pursuer of a felon for his owne goods, taketh them againe, and letteth him goe, *Lamb.* 290. *Dal.* 296.

Reliever or receiver of one bailed for felonie, *Lam.* 290. *Cro.* 42. b. nu. 25. *Dal.* 294.

Buyer of stollen goods, knowing thereof, *Lamb.* 291. unless he receive the felon, *Crom.* 42. a. nu. 17. *Dal.* 295.

The wife receiving the husband, knowing him to be a felon, *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death, *Lam.* 292.

After acquittall as principall, one may bee arraigned as accessary after the fact, but not before the fact, *Lamb.* 292, 557. *Crom.* 42. b. nu. 18.

One may be accessary to an accessary: as, if one feloniously receive or comfort an accessary, *Dal.* 297. *Lamb.* 291. *Cro.* 42. b. nu. 24.

Who shall be said a Principall.

Those of the society of a felon, and present at the fact, though not actors, *Dal.* 283. *Stamf.* 40. a. *Cro.* 22. a. nu. 10. 15. *Dal.* 291.

An abbetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute, 3. H. 7. cap. 2. *Lam.* 285.

Accessary in one County to a felony done in another County, may bee indicted where
he

Additions.

5

he becommeth accessarie, 2.& 3.Ed.6.ca.24.
Dal. 297.

It is no good indictment against an accessary, to say, that he received the goods, without saying he received the felon, *Lamb.* 500.
291.

Acquittall, *Vide* Enditements.

Additions.

In every indictment or presentment where outlawry lyeth, the estate of degree or mysterie, the towne, hamlet, or place where the indicted dwelleth, are to be added, 1.H.5.ca.5.
Lam. 488.

What shall be a good addition of degree or estate.

Duke, Marquesse, Earle, Vicount, Archbishop, Bishop, Baron, Knight, Serjeant at law, Esquire, Gentleman, Alderman, Widow, single Woman, Deane, Archdeacon, Parson, Doctor, Clerke, Parish-clerk, *Lam.* 488; 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertaine, as Farmer, Servant, Butler, Chamberlaine, *Lam.* 489. *Cro.* 109.a.6.nu.8.

What shall be a good addition of mysterie.

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Lighterman,

man, Waterman, Spinster, *Lam.* 489.

what not.

That which is no mysterie nor degree, as Citizen; nor any unlawfull trade; as Extortioner, Maintainour, Vagabond, Heretick, Dicer, Carder, &c. *Lam.* 489.

Addition of degree or mysterie must be as the party then is. But addition of the place may be such whereof he was, *Lam.* 489, 490. *Additions Br.* 41.

Addition of degree and mysterie must be knit to the proper person, *Lam.* 489.

The Statute of the 1. H. 5. cap. 5. of additions, doth not extend to informations, *Lamb.* 510.

What shall be a good addition of place.

Either of the Towne or Parish, if they be both of one name, *Lam.* 490.

Of the Towne onely, where there be two Townes in one Parish, *Lam.* 490.

Either of the Towne or Hamlet, if there be two Hamlets in one Towne, *Lam.* 490.

Of the Town, if the person be of a place knowne within the Towne, *Lam. ibid.*

Addition must comprehend the County, Towne, or Hamlet, whereof the party is or was, *Lam. ibid.*

What not.

Of the place where he is Parson, without naming the place of his aboad, *Lam. ibid.*

Affray

Affray and Affrayers. 7

An affray may be without word or blow :
as, to be armed with armour or weapon not
usually borne, *Lam. 126.*

“ It is no affray properly unlesse there bee
“ some weapon drawne, or stroke given, or
“ offered to be given, or some such attempt,
“ *Dal. 34.*

Constable or other Officer may lay no
hands on any intending to make an affray,
till weapon drawne, or offer of blow, *Dal. 34.*
Lam. 132. Cro. 146. a.

“ An affray is in a house, and the doores
“ are shut, the Constable may breake into
“ the house to see the peace kept, *Dal. 34.*

“ If the Affrayers flie into another house,
“ into a Franchise or other County, the
“ Constable upon fresh suit may pursue
“ them, but cannot meddle out of the Coun-
“ tie but as a private man, *Dal. 34.*

Affrayer may be commanded by the Con-
stable or other Officer to avoid upon pain of
imprisonment : And if the affray be great,
they may make proclamation, and command
the parties to prison for a small time, whom
hee must deliver without fine, *Lamb. 132.*
Dal. 34.

“ After an affray, a Justice of Peace may
“ commit the offenders till they find sureties
“ (if the affray were in his presence) if out
“ of his presence, he may send his Warrant,
“ and commit them till they doe find sure-
“ ties. *Vide Surety of the peace.*

“ If a man be dangerously hurt, and the
“ wound mortall, although the Justice of

8 Affray and Affrayers.

“Peace may baile the offender, yet it is the
“safest way to commit him till there ap-
“peare some hope of recovery, *Dal.35.*

“If an assault or affray bee made upon a
“Justice or Constable, they may defend
“themselves. The Justice may cause them to
“be arrested; the Constable may commit
“them to the Stockes, and after carry them
“before a Justice of Peace, *Dal.35. Vide*
“Peace.

“An affray is in a corporate Towne
“ (which hath Justices within it self) while
“ the Sessions be held there: the Justices of
“ Peace shall not meddle there; but it is o-
“ therwise at the Assises, *Cro.146.b.*

Every private man present at an affray, as-
sault, or battery, may part them, stay them
that come to the affray with weapon, stay
the affrayers till the heat be over, and then
deliver them to the Constable; but may not
commit them, unlesse one of the affrayers
be in perill of death. And if he flie into a
house, upon Huy and Crie breake open the
house, and take him, *Dal.33. Lamb.131. Cro.*
146.a. Vide plus Constable.

Agnus Dei, Crosses, Beads, &c.

If any person, to whom any of these, or a-
ny other superstitious things from the See
of Rome or authority thereof be offered, doe
disclose the name, dwelling, or place of re-
sort of such offerer or deliverer, to any Justice
of Peace of the same Shire, the same Justice
must within fourteen daies next after declare
the

Alehouses.

9

the same to some one of the Privie Councell, on pain of Premunire, 13. *El. cap. 2. Dal. 105. Vide plus* Treason, Misprision, & Premunire.

Alehouses.

Two Justices, one being of the Quorum, may license one to keep a common Alehouse, taking bond with good surety for good rule to bee kept in his house, 5. *Ed. 6. cap. 25.*

“ And an Alehouse-keeper put downe by
“ two such, cannot bee allowed by any other
“ two, but in open Sessions, *Dal. 29.*

Twelve pence is given to the two Justices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouse, 5. *Ed. 6. ca. 25. Lam. 370.* Condition of a recognizance for an Alehouse, *Lam. 354.*

He that keepeth an Alehouse of his owne authority, without license of two Justices, one being of the Quorum, or after prohibition of two such Justices, may by two such Justices bee committed to prison for 3. daies without baile, and till he be bound with two sureties to keep none after, *Dal. 29. Lam. 354.*
“ *Vide Stat. 3. Car. 3.* which alloweth selling
“ of beere or ale in Faïres (though unlicensed :) As also the punishment of persons
“ unlicensed.

Information of the offence and recognizance taken by two Justices, one being of the Quorum, of an Alehouse kept against the Statute of 5. *Ed. 6. ca. 25.* and certified by them to the Sessions, is a sufficient conviction

without further tryall at the Sessions: and they may affesse the fine of 20. shillings without making processe against the offender, *Lam. 572.*

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognizance, they may award processe against him, to shew why he should not forfeit his recognizance. Quære what processe, *Lam. 524, 529.*

Enquiry whether Alehouse-keepers have forfeited their recognizance, ought to be at the Quarter Sessions, *5. Ed. 6. 25.*

Fines imposed by the Stat. of *5. Ed. 6. ca. 25.* concerning Alehouses cannot be altered by the Justices of Peace, *5. Ed. 6. c. 25. Lam. 578.*

Justices of Peace must certifie the recognizance taken for Alehouses at the next Quarter Sessions after they are taken, or lose 5. Marks, *5. Ed. 6. ca. 25.*

Any directly or indirectly selling Ale or Beere unto any Alehouse-keeper not licensed, more then for his necessary provision for his household, shall lose after the rate of 6. shillings 8. pence for every barrell. For the levie and disposall of the penalty, see *Victuals, 4. Jac. 4.*

Alehouse-keeper or Inne-keeper suffering any tipling contrary to the *1. Jac. ca. 9. 4. Jac. cap. 5. 7. Jac. cap. 10. 21. Jac. cap. 7.* forfeiteth 10. shillings, and every such tipler 3. shillings 4. pen. for not ability of payment the Alehouse-keepers, &c. to bee committed to the Gaol till the penalty be payed, which penalty

is

is to be payed within 6.daies, or the distresse to bee sold, 1.*Jac. cap.9.* the tipler to the Stockes for 4.houres, 4.*Jac. cap.9. Dal.28.*
1.*Car.4.*

Justice of Peace hath power in those cases to minister an oath to witnesses, wherein oath of one witness is sufficient, 1.*Car.6a.4.*
1.*Jac.9.* 21.*Jac.7.*

The Constables and Churchwardens neglecting to levie, or to certifie the cause thereof by 20.daies to the Justice that granted the distresse, do forfeit 40.shill. in default thereof to be sent to the Gaole till payment be made.
1.*Jac.ca.9.Dal.28.Cro.78.a.*

Alehouse-keepers and Inne-keepers ought to lodge travellers. *Quere* how he is compellable, and see the opinion of Sir James Ley chiefe Justice at Lent Assises, 1622.
Dal.28.

"No Inne-holder, Alehouse-keeper, or other Victualler shall bee compelled to sell victualls to others, or to have lodging, except the partie first pay ready money, *Dal.28. Coh.lib.9.sol.87.b. Brook.action sur le case 76.*

"Selling of lesse then a full Ale-quart of best Beere or Ale for 1.d. and of 2.quarts of small for 1.d.upon oath of one witness the penalty is 20.shill. 1.*Jac.cap.9. 4.Jac.ca.5. 21.Jac.ca.7. Dal.26.*

"Any tipling in any Inne, Alehouse, or Victuallhouse, wheresoever his habitation be, forfeiteth 3.shillings 4.pen.21.*Jac.ca.7.Dal.28.*

"A feme

" A feme covert keepeth an Alehouse, and
 " selleth Ale, &c. without license, contrary
 " to her husbands will, the husband is pu-
 " nishable, *Dal.* 30.

" The voluntary confession before one Ju-
 " stice of Peace of any offender against the
 " Stat. of 1. *Jac.* c. 9. or 4. *Jac.* ca. 5. is sufficient
 " to convince the party offending. And after
 " confession, the oath of the party confessing
 " is prooffe against any other offending at the
 " same time, *Dal.* 26. 21. *Ja.* c. 7.

" Alehouse-keepers are disabled to keep
 " Alehouse for three yeeres after,

1. If they suffer tipling, *Dal.* 31.

2. If they sell not a quart of the best, and
 2. quarts of small Beer or Ale for a peny, *Ibid.*

3. If they be convicted by Indictment at
 the Assises Sessions, or Leet, for being drunk,

4. *Jac.* ca. 5. or before one Justice upon oath of
 one witness, 21. *Ja.* c. 7.

4. Continue drinking in another Alehouse,
 7. *Jac.* 10. 4. *Jac.* 5. *Dal.* 32. *Vide plus* Victual-
 lers confession.

In all these cases, if he be licensed againe
 within three yeeres, such licence is void, and
 he to be punished as victualling without li-
 cence: *Dal.* 32.

If any unlicensed Alehouse-keepers bee
 convicted by the view of any Justice of the
 Peace, confession of the offender, or oath of
 two witnesses, he loseth 20. shil. to the use of
 the poore of the Parish, to be levied by way of
 distresse by warrant from the Justice of Peace
 convicting, and within three daies to be sold,
 34. *Cap.* ca. 3.

Where

Where there is no sufficient distresse or non-payment, within six daies after conviction, the offender is to bee openly whipped as the Justice of Peace shall limit, 3. *Car. cap. 3.*

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Gaole, untill hee doe or procure the offender to be whipped, or pay 40. shill. to the use of the poore of the said Parish, 3. *Car. cap. 3.*

The second offence is commitment to the house of Correction for a moneth, *Ibid.*

The third offence is to remain in the house of Correction till hee be delivered at the generall Sessions, *Ibid.*

He that is punished by the Act 3. *Car. 3.* not to be punished by the Statute, 5. *Ed. 6. cap. 25.* & *è contr.*

Aliàs dictus, vide Endictment.

Alien and his triall, vide Triall.

Allegiance, vide Supremacie.

Amerciaments.

The owner of a beast, knowing it to bee harmfull, and not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb. 239. Cro. 24. nu. 45. Dal. 238.*

Offenders in gathering more amerciaments then are in their lawfull estreats, to be convicted by two Justices, one to bee of the Quo-
rum

rum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffes, 11.H.7.c.15

Estreats of amerciaments must be by Indenture between the two Justices (appointed for oversight of Sheriffes bookes) and the Sheriffe or Under-Sheriffe under their seales, or else the Sheriffe to lose 40.shill. 11.H.7.c.15.

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lam.*381. or when the summons is at one place, and kept at another, *Ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.*384.

Justices of Peace cannot amerce their fellow for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Gaol-delivery, *Lam.*385.

Clerke of the Peace, Coronors, Sheriffes, Bailiffes of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions, *Lam.*395.

Amerciaments of Jurors for concealment, *Vide Jurours, Lam.*400,401. 3.H.7.c.1.

Appearance.

Recognizance taken for the Peace against all the Kings people, and to appear at the next Sessions by Superiendeas out of the Chancery, testifying surety found there against all the Kings people for ever, will discharge

Appeale.

15

charge the appearance of the next Quarter Sessions. Otherwise it is, if it be but untill a day certaine, *Lam. 99, 106, 107. Dal. 173.*

Who shall be amerced for default of appearance, and who not, *vide Amerciaments. Release.*

Appeachment, *vide* Approvers.

Appeale.

Justices of Peace can take no appeale of any felony, *Lam. 550. Stamf. 65.a. quere tamē.*

Appeale of robbery, *vide* Attainder.

Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refusing to be bound, shall be committed till he will be bound, *5.El. 4. Dal. 78.*

Upon complaint of an apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appeare at the Quarter Sessions, *Dal. 78.* and to bee discharged by foure Justices. If default bee in the apprentice, it seemeth one Justice may send him to the house of Correction, *Dal. 78.*

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sons of poor parents, not able to keep and maintaine them, till 24.yeers of age, or their daughters till 21.yeers of age, *39.El. ca. 3. 43.El. ca. 2.*

Dal.

Dal.83. Lam.33 1. 21. Fac.c.28. continued by 1. Fac.c.25.

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in Townes not corporate by the Parson or Vicar, Constable, Church-warden, and Overseers for the time being, or most part of them, the same to be according to the will of the Giver: And any of the disposers forbearing and refusing to dispose of the monie, whereby it is not disposed, shall lose 3.pounds 6.shillings 8.pcn.one moytie to the poore of the Parish, the other to the Informer, 7. *Fac.ca.3.*

Disposers of such monie given for apprentices, are to take bond with two sureties of such master or mistresse, for such monie as they shall so receive, for the repayment thereof at the end of seven yeers, or three moneths after, 7. *Fac.ca.3.* Or if the apprentice dye within 7.yeers, then to repay the monie within one yeere after such master or mistresse death, 7. *Fac.ca.3.*

The master or mistresse dying within seven yeers, the disposers are with the said mony to put out the said apprentice to some of the said trade, to serve out the residue of his 7.yeers, 7. *Fac.ca.3.*

Monie given for putting forth apprentices, is to be disposed within three moneths after the receipt, *Ibid.*

None above 15.yeeres old are to be placed by the disposers, and those to be of the poorer

poorer sort ; and for want of such they may choose others of the Parish next adjoyning, *Ibid.*

Disposers of monie for apprentices are to accompt before two Justices next adjoyning yeerly in Easter weeke, or within a moneth after : and within ten daies after such accompt made, must deliver all such mony and bonds remaining in their hands, to such as succeed in their roomes, *Ibid.*

He is no apprentice, if he be not retained by Indenture, and by the name of an apprentice expressly, *Cro. 185.b.*

Breakers of trust for disposing money given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within 3. moneths, and the party grieved by an act of the Commissioners is to be relieved upon his Bill in Chancery, *7. Jac. cap. 3.*

Certificate to the head-officer of City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, may dispend 40. shil. freehold, must be under the hands and seales of three Justices where the land lieth, *5. El. ca. 4.*

Apprentice is to be discharged by foure Justices in open Sessions, *Dal. 79.*

The discharge of an apprentice is to bee inrolled by the Clerk of the Peace, *5. El. c. 4. Vide plus Labourers.*

A master putteth his apprentice into apparel, hee cannot take it away, though hee part

18 Approvers or Appeachers.

part with his apprentice, *Dal.* 96.

Every housholder having halfe a plough-land in tillage may take an apprentice betwixt the age of 10. and 18. to serve in husbandry, which must be by Indenture, 5. *El. cap.* 4.

Approvers or Appeachers.

Gaoler, keeper, or under-keeper by paine compelleth his prisoner to become an appeacher of others, it is felonie, 14. *E. 3. ca.* 10.

Justices of Peace can take no appeale of an approver, *Lam.* 530. *Stamf.* 144. a. *Dal.* 320.

One felon accuseth another before a Justice of Peace; they may take his confession and reprieve him, and so proceed against the other, *Lam.* 551.

Archery.

“ Justices of Assise, Gaole-delivery, and of
“ the Peace, & Stewards of Leets have power
“ to enquire, heare, and determine of the Sta.
“ 33. *H. 8. c.* 9. and also by their discretion ex-
“ amine all persons, lacking and not having
“ bowes, shafts, and arrowes, according to the
“ forme of the said Statute, viz. being un-
“ der 60. yeers, and have not in his house bow
“ and arrows, or have not used shooting. And
“ every man-childe between 7. & 17. yeers of
“ age, not having a bow and two shafts: and
“ above 17. yeers, four shafts, he loseth for eve-
“ ry moneth 6. shill. 8. pen. *Lamb.* 481. 33. *H. 8.*
“ 6. 9.

Armour

Armour.

Any (except the Kings Officers and their companie doing their service) riding or going armed, or bringing force in affray of the people, are to be imprisoned, and lose their armour, 2.E.3.ca.3. Dal.35. Cro.76.a.

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon inquiry by the Judges of Assise, are to be by them punished, 2.Ed.3.cap.3.

The counterpain of the Indenture of armour to be kept by the Clerke of the Peace, 4.& 5.Ph.& M.ca.2.

The Statute 4. & 5.Ph.& Ma. concerning keeping of horses and armour, with the penalties thereof, are repealed, 1.Jac.c.25.

Armour and Munition of a Recusant convicted, being in his own possession, or at his dispose, other then such as shall be thought meet for the defence of his person and house, by warrant of foure Justices at the Quarter Sessions are to bee seised and kept at such place as the foure Justices at the Sessions shall appoint, at the cost of the owners; and they, concealing or disturbing the delivery of it, lose the armour and munition, and by warrant from any Justice of Peace, to be imprisoned 3.moneths without baile, 3.Jac.c.5. Recusant having his armour seised, is to be charged with such armour and horse, as hee and others of his Majesties subjects shall be commanded to serve with at musters, 3.Jac. cap.5.

Any

Any Just. of Peace may arrest any (except the Kings officers, and such as doe him service) that goe armed, and bind them to the peace, or good behaviour, *Cro. 76. a. Dal. 30. Lam. of Const. 13.*

A Justice of Peace may cause weapons to be taken from prisoners brought before him, *Dal. 36.*

No servant in husbandry, artificer, victualler, or labourer, shall weare sword or dagger, *12. R. 2. c. 6. Dal. 36. Cro. 76. b.*

Arrests.

An Arrest is a certain restraint of a mans person, depriving it of its owne will and liberty, and binding it to become obedient to the will of the law, *Dal. 343. La. 93. Cro. 38. a. nu. 1.*

All lay persons under the degree of a Baron, or Peere of the Realme, are subject to an arrest, *Lam. 93. Dal. 343.*

Ecclesiasticall persons not attendant upon divine Service, may be arrested for the peace, *Lam. ibid. Dal. 166.*

Constable, or Justice of Peace comming to arrest an affrayer, if hee flie into another house, they may in fresh suit breake open the doore and take him: So if he flie into another County, *Lam. 134. Dal. 34.*

All that come to the Sessions for publike service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon originall processe, *Lam. 402.*

Bailiffe

Bailiffe taking above 4. pen. for any arrest, shall forfeit 40. li. 23. *H. 6. ca. 10.*

The officer ought to require the party to come and find surety of the peace, before hee arrest him, by the opinion of 5. *Ed. 4. 31. Lam. 90. Dal. 166.*

If one required by the officer upon warrant to find surety of the peace, refuse, the officer by vertue of his warrant may convey him to prison, *Lam. 92. Dal. 171.*

"In all criminall causes where one incur-
"reth losse of member, or of life, every man
"may arrest him, whether he have warrant or
"not, *Dal. 344.* But where a private man ar-
"resteth any in the cases aforesaid, he ought
"to deliver him to the Constable, or some of-
"ficer, *Dal. 348.*

"When a felony is committed, 1. any man
"that suspects another may arrest him: 2. or if
"there be common fame that he committed
"the felony: 3. or if he be prosecuted with huy
"and crie: 4. or if hee be in company of the
"offenders: 5. or he apparantly goe about to
"commit a felonie, *Dal. 345. Vide Cro. 99. b.*

"A man is slaine, or a felony committed,
"and an innocent party is arrested for the
"same, he cannot be delivered but by order of
"law, *Cro. 40. b. nu. 20. Dal. 279, 304. Lam. 233.*

A Constable taking an affrayer, may not imprison him in his house, but in the Stockes, *Lamb. 133. Vide Riot, Sheriffe, Prison.*

Arraignment.

Arraignment is commonly a compulsory coming

comming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam.* 546.

One comming in freely, and indicted of an inferiour offence, may bee arraigned, *Lam.* 547.

One arraigned of felonie, if his case will serve, may plead a justification or matter in law, *Lam.* 547. And the Court shall assigne him counsell. *Cr. 110. m. 5.*

“He that is arraigned of felony shall have
“leave to bring him into the Court, who sold
“the thing to him, and the Court shal assigne
“him counsell, *Cr. 110. a m. 3.*

Artificers, *vide* Labourers.

Affault.

Affault cannot be made without the offer of some hurtfull blow, or at least of some feartull speech. *Lamb.* 126.

To rebuke a collectour with foule words, so that he depart with feare, without doing his office, was taken for an assault. *Lamb. ib.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault. *Lamb. ibidem.*

Maker of an assault, battery, or other trespassse upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a yeere,

yeere, and any other corporall punishment saving life and member. 5. *Elif. cap. 4. & 5. Dal. 80. Cro. 84. a.*

If another assault me, if I may escape with my life, it is not lawfull for me to beat the other. *Dal. 210.*

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal. 210.* Yet by opinion of *Elyot*, 12. *H. 8. fo. 2. b.* it is not lawfull, except there be such perill as another is like to perish if there be no help. *Dal. 184. 210.*

‘ A man taketh away my goods which are
‘ in my possession, I may take them againe
‘ with force, *Cro. 65. b. nu. 60. 61. & 137. a.*
‘ *Dal. 181.* But I must first lay my hands on
‘ him, and disturb him, and if he will not
‘ leave, then I may beate him, rather then he
‘ shall have my goods, *Dal. ibid.*

Assembly unlawfull, vide Unlawfull assembly.

Assize of Bread and Beere.

Any Brewer, or Baker, or Tipler, breaking the Assize of Bread and Ale, to bee fined.
13. R. 2. c. 8. Lam. 459.

Any officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporall punishment, is to be fined.
13. R. 2. c. 8. Lamb. 459.

Attainder.

One attainted of felony may be arraigned for treason committed before or after the attainder. *Lam.* 557, 558.

One attainted upon an appeale of robbery, may be arraigned upon an appeale of robbery at anothers suit. *Lam.* 558.

One attainted of felonie, by standing mute, may after be arraigned of another felonie. *Lam.* 558.

One attainted of felony, cannot after be arraigned for another felony, so long as the first is unpardoned, unlesse it be in the cases before. *Lam.* 557.

After the attainder, the felons grant of goods or lands bindeth all persons, except the Land-lord, to whom they escheat. *Dal.* 303.

Indictment is, when an offence is found by the great Inquest, or other Jury of inquirie.

Conviction is, when the offender is found guilty by a second Jury, having put himselfe to triall.

Attainder is, when after such conviction judgement is given against the offender. *Dal.* 304.

A wait lying, *vide* Way-laying.

Averrements.

No man shall be received to averre or speak against a record. *Lam.* 63.

Badgers

Badgers and Drovers.

Licence to Badgers and Drovers, and Loaders of corne, must be in open Sessions, and there registred and kept by the Clerk of the Peace. *5.El.c.12.Lam.610.*

Offences against the statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment. *5.El.cap.12.*

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace. *5.El.cap.12.*

“Clerk of the Peace must make and write
“all Licences made to Badgers, Loaders, and
“Drovers, and keepe a booke to register the
“same, and the recognisance taken before the
“Justices of Peace, which recognisance must
“be [*That they shall not do any thing contrary*
“*to the statute 5.Ed.6.cap.14.provided against*
“*forestallers,*] and therein write the names
“and surnames and places of the licensed,
“with a brieve entry of the licence, day, time,
“and place where it was granted, and bring
“the same to every Sessions, taking for the
“licence xii.d. for the recognisance viii.d. and
“for registering iiiii.d. *5.Eliz.cap.12.*

Bailement.

Bailment, Mainprise, or replevin, is the saving or delivering a man out of prison be-

fore he hath satisfied the law; so by finding sureties to answer, and to be justified by the law. *Lam.* 340. *Dal.* 312.

He that is bailed, is delivered into his sureties hands to be kept. *Cro.* 152.b. *nu.* 6. *Stam.* 65.a. *Dal.* 312.

If the sureties doubt the escape of the prisoner bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison. *Dal.* 312. *Cro.* 153.a. *nu.* 13. & 157.a.

A Justice of Peace may cause the bailed to find better sureties. *Cro.* 152.b. *nu.* 4. *Dal.* 312.

It is requisite to take two subsidie men for baile, especially if it be for felonie, or suspicion thereof. *Dal.* 313.

To detain a prisoner that is baileable, is fineable. *Dal.* 313.

To baile one not baileable, is a negligent escape. *Dal.* 313.

A Justice of Peace bailing contrary to the law, or not certifying the baile and examination of the felon, is fineable by the Justices of Gaole-delivery. *Lam.* 345.1. & 2. *P. & M.c.* 13. *Cro.* 167.b. *Dal.* 313.

Where one isailable, he must offer sureties. *Dal.* 313.

For what offences a man is notailable by a Justice of Peace by the statute of W.1. 3. Ed.1.15. Cro.156.a. Lam.345.

1 Abjured the Realme. *Dal.* 316.

2 Ap-

- 2 Approver or appellour. *ibid.*
- 3 Appealed by an approver. *ibid.*
- 4 Burning a house feloniously. *ibid.*
- 5 Excommunication taken at the Bishops request. *ibid.*
- 6 Felon taken with the manner. *ibid.*
- 7 A knowne theefe and defamed. *ibid.*
- 8 Outlawed. *ibid.*
- 9 Prison-breaker. *ibid.*
- 10 Traitor to the King himselfe. *ibid.*
- 11 Falsifier of the Kings money. *Dal.* 317.
- 12 Counterfeiter of the seale. *ibid.*
- 13 Attainted or convicted of felonie. *ib.*
- 14 Accessary to two felonies, if one principall be attainted. *Dal.* 319.
- 15 Death of man, if he be principall. *ib.*
- 16 Taken upon Proces of rebellion issuing out of Chancery or Star-chamber. *Lamb.* 347. *Dal.* 320.
- Arrested by Proces, Writ, Bill, or Warrant, in an action personall. *ibid.*
- 18 Persons convicted of felony, praying Clergy and reprieved. *Cro.* 154. a. n. 2. *Dal.* 318.

For what other offences a man is not baileable by a Justice of Peace.

A Justice of Peace is not to baile but in causes which he may heare and determine. *Lamb.* 347. *Dal.* 320.

Murder, or any other homicide. *Dal.* 315.

Confessing the fault of manslaughter. *ibid.* *Lamb.* 34.

Taken in the manner for killing. *ibid.*

Knowne to have killed a man. *ibid.*

By the King, or his privie Councell. *Dal.* 316.

By the absolute, not ordinary command of the Kings Justices. *ibid.*

For trespasses in the forrest. *West. 1. cap. 15.*

Confessing the felony whereof he is accused. *Cro. 152.6.*

Imprisoned for surety of the peace. 23. *H. 6. c. 10. Lamb. 346.*

Speciall commandement of any Justice. 23. *Hen. 6. cap. 10. Lamb. ibid.*

where Bailment is taken away by statute. *vide Lam. 349. Dal. 320.*

For what offences a man isailable.

Taken for light suspicion. *Dal. 317.*

Indicted of petty larceny, not being formerly guilty of another. *ibid.*

Charged, 1. With the receipt of thieves, of felons. *Dal. 318.*

2. Of commandment force or aid in felony done. *ibid.*

3. With the trespassse that toucheth not losse of life or member. *Dal. 319. West. 1. 15.* (if not prohibited by some latter statute) appealed by an Approver, being no common thiefe, nor defamed after the death of the Approver. *Dal. 320.*

Indictment of manslaughter, and acquitted. *Lam. 347.*

Acquitted of murder or manslaughter at the

the Kings suit,ailable during the yeere, 3, H. 7. cap. 1. Lam. 347.

Imprisoned by Proces out of the Sessions upon penall lawes not forbidding baile,ailable out of the Sessions by two Justices, one being of the Quorum. Lam. 348. Dal. 319.

Accused of homicides which are not felony.

Accessary to felonies. Dal. 318.

If they bee found of good fame, untill the principall be convicted or attainted: but after the principall is attainted, hee is notailable, except hee plead not guilty or other plea. Dal. ibid. & 321.

Principall in burglary. Dal. ibid.

Principall in an indictment of robbery. Dal. ibid.

Principall in an appeale of robbery. Dal. ibid.

Attached by Sessions Proces upon indictment of trespassse, may be bailed by one Justice of Peace to appeare at the day to answer the indictment, and may make his Superfedeas, de cap. indict. and so of the exigent. Dal. 319.

In every bailment which must bee by two Justices, one of them being of the Quorum, the Just. must be present together at the time of bailment, who before baile taken must examine the prisoners, and receive the information of them that bring them: all which with the bailment they must put in writing, signed or subscribed with their owne hands, and certified at the next Gaole delivery to be holden in the County. 1. & 2. P. & M. ca. 13. Dal. 314.

The said Justices have authority to binde all persons that can give evidence, to appeare the

next Gaole-delivery to give evidence against the party at the time of his tryall. *Dal.* 303.

Some statutes not onely take baile from the offenders thereof upon their solemne conviction after judgement, but also upon the record of one or two Justices, or by examination or proove of witnessses, or other such private tryall had before them. *Lam.* 349. for the forme of bailment. *Lam.* 252. The forme of the liberate. *Dal.* 396. *Lam.* 352.

Bailiffes.

Bailiffe was punishable in false imprisonment, if he compell the party to go before any other Justice than he chuseth. *Lam.* 89. 94.

But now the law is adjudged to be, that the Bailiffe or Constable shall chuse the Justice. *Dal.* 59. and *Coke* l. 5. 59. b. *Fosters* case.

As the Bailiffe may not compell him that is arrested for surety of the Peace, to go before him that granted the warrant; so it is not reasonable that the Bailiffe shall be drawne out of the division and limit where they both dwell. *Lam.* 95. *Dal.* 171.

A Bailiffe arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment. *Dal.* 341. *Cro.* 149. a. *Lam.* 90.

A Bailiffe arrests one by warrant for the Peace, the Justice will not binde the party, no action lieth against the Bailiffe. *Dal.* 1. *Lam.* 91.

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchises before they exercise their offices, the oathes of 1. *Elis.* of supremacie, and 27. *Elis.* touching their

their offices. 27. *Elis. cap. 12.*

Bailiffe taking above foure pence for an arrest, is to forfeit 40. li. 23. *H. 6. cap. 10.* and lose treble dammage to the party damnified.

Bailiffe of the Hundred that executeth not a warrant against any defendant in the Sheriffes Court, shall lose 40. shill. 11. *H. 7. c. 15. Vide plus Warrants.*

Bakers, *vide* Assise of Bread.

Barettour.

A common Berettour is he, who is either a common mover, stirrer up, or maintainer of suits in law in any court, or quarrels in the countrey. *Dal. 36. Lam. 440. Cro. 84. a.* and is to be bound to his good behaviour, and imprisoned. *Lam. 440. Vide plus Dal. 36. Coke 8.36.*

Bargaine and Sale, *vide* Inrolment.

Barke of Trees, *vide* Leather.

Bastardy.

Two Justices of Peace, one being of *Quorum*, in or next to the Parish, where a bastard left to the charge of the Parish, or likely to bee chargeable, is borne, are to take order for the reliefe of the Parish, keeping of the child, and punishment of the reputed father and mother. 18. *El. 3. 7. Jac. ca. 4. Dal. 37.*

The reputed father and mother not performing the order set downe by two such Justices, the delinquent is to be sent to the Gaole without baile, except they put in sureties to performe the order, or appeare at the next generall Sessions of the Peace. *Dal. 38.*

"If the Justices of the Peace do not agree
 "upon an order, it is to bee referred to the
 "Bench. *Dal.* 25.

"*Quadragesima septimana sunt legitimum tem-
 "pus mulieribus constitutum.* Coke Instit. 123.
 "Dal. 38.

"The mother may bee examined upon oath,
 "concerning the reputed father, the time and
 "other circumstances. *Dal.* 37.

"By 7. *Jac. ca.* 4. the mother is to bee com-
 "mitted to the house of correction for a yeere:
 "but not till after delivery, and the child li-
 "ving. *Dal.* 38.

"If she offend the second time, she is to bee
 "committed to the house of correction, and
 "there remaine till shee finde sureties for her
 "good behaviour, and not to offend againe.
 "7. *Jac. c.* 4. *Dal.* 38.

All Justices of Peace in their severall limits,
 and in their Quarter Sessions, may do all things
 concerning the statute, 18. *Elif.* for Bastardy,
 which is limited to the Justices of Peace in se-
 verall counties. 3. *Car. cap.* 4.

Reputed father to bee bound to the good be-
 haviour till the child be borne. *Dal.* 37.

Vide plus House of Correction.

If the putative father shall either before or
 after the birth of the child, by practice of any
 other, convey himsefse away, or cause the mo-
 ther to run or leave her child, such may bee
 bound over to the next Gaole delivery or Quar-
 ter Sessions. *Dal.* 37.

Battery lawfull, *vide* Riot, Assault,
 Breach of the Peace.

Bath and Buxton, *vide* Licence.

Bawdery.

Bawdery is not meerely a spirituall offence but mixt, and soundeth somewhat against the Peace, *Lam.* 119. *Dal.* 193.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if hee finde them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour, *Dal.* 193.

Reforters to bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Keepers of bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Bread, *vide* Agnus Dei.

Beare-wards *vide* Licence.

Beere and Beere-brewers,

vide Victuallers.

Beggers, *vide* Rogues and poore people.

Blockwood, *vide* Logwood.

Bloudshed.

Presentment of bloudshed found in the Sheriffes Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffes Turn. *Lam.* 543.

34 Bonds, *vide* Recognifances.

Bowyers, *vide* Archery.

Brasse and Pewter.

Brasier nor Pewterer may exchange or sell any Brasse or Pewter, but in open Market or Faire, or in his house, unlesse upon request of the buyer, on paine of ten pounds for each offence. 19. H. 7. c. 6. 4. H. 8. 7. and inquirable at the Sessions. *Lam.* 621.

All working hollow wares of other lay metall, than according to the assize of the lay metall wrought in London, or not setting their seale on, lose the wares. Searchers of Brasse and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions. 19. H. 7. c. 6. 4. H. 8. c. 7. *Lam.* 621.

Breach of the Peace, or good behaviour.

what shall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whose suit he was bound. *Lam.* 115. *Dal.* 181. *Cro.* 136. b. or in his absence, if hee after lie in wait to do it. *ibid.*

To command or procure one to do any unlawfull act against the Peace, if it after be done.

Menacings, affrayes, assaults, injurious and violent handlings and entreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason. *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by
threats

threats or blowes to repulse violence offered his Land-lord or Maior. *Lam.* 129. *Dal.* 185.

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance, made for keeping of the Peace. *Dal.* 181. *Lam.* 114.

" A Justice of Peace certifieth into the K. Bench that such a man broke the Peace in his presence, the party shalbe put to his fine without any traverse. *Cro.* 132. a.

What not.

In his absence to threaten to beat him, at whose suit he was bound to the Peace. *Dal.* 181.

Threats or moderate correction of the Master, Schoolmaster, Gaoler, to those under their command, of Parents to the child within age, of the Lord to his villain. *Lam.* 127. *Dal.* 183.

To beat with rods a kinsman that is mad, to the end to reclaime him. *Dal.* *ibid.* *Lam.* 128.

Constable, Officer, or any of their company, to strike any for better execution of their office. *Dal.* 180. *Lam.* 128. By threats or blowes to repulse violence offered to ones own person, wife, father, mother, child, master. *Dal.* 184.

Preservation of his owne goods. *Ibid.* *Lam.* 129. and *Crom.* 136. b. affirme that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quære of it, and that a Master may only with sword or staffe defend him. *Dal.* 185. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, tournament, or barriers in the Kings presence, or by his command. *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from his

36 Breach of the Peace, &c.

his person. *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recogniz. *Cro.* 65. b. nu. 59. 8. 137. a.

So to take anothers Ward. *Dal.* 186. *Lam.* *ibid.* To disseise another of his Ward. *Dal.* *ibid.*

To trespassse in anothers corne or grasse. *ibid.*

Trespassse lyeth at the Common Law, for threatning to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his owne person from beating, wounding, or killing; but if hee may escape with his life, without being wounded, maimed, or hurt, it is not lawfull, except hee first flie as farre as hee can. *Dal.* 184. *Cro.* 137. a.

To take a dogge of any kinde, or other thing of pleasure from the person of another, or in his presence with force or violence, amounteth to a breach of the Peace. *Dal.* 168.

Brewers, *vide* Victuallers.

Bridges.

“By common right Bridges should be amended by the whole County, for it is for the common ease of the County. *Cro.* 187. b. yet if any have fishings or profit in that river they are chargeable. *Cro.* 186. b.

A man voluntarily maketh or amendeth a Bridge: he is not compellable to do the same againe, unlesse he and his ancestors have used so to do time out of minde. *Dal.* 41. *Cro.* 186. a.

“Where a man and his ancestors have used time out of minde to repaire a Bridge, the King cannot acquit him. *Dal.* 41.

It being not knowne, who, or what land is chargeable

chargeable with the repaying of a decayed Bridge, foure Justices, one being Quorum, may tax the Inhabitants and make Collectors, and
 “ Overseers for repaying of it. : And appoint
 “ Surveyours, and exact an accompt of them,
 “ and if they refuse so to do, the said Justices
 “ may make out Proces against them, by At-
 “ tachments, Precepts, or Warrants under their
 “ seales, returnable at the Quarter Sessions, and
 “ may allow reasonable costs to the Surveyours
 “ and Collectors. 22. H. 8. ca. 9. Dal. 40.

“ A man and his ancestors or a Corporation
 “ time out of minde used to make a Bridge,
 “ though they did it freely at the first and not
 “ of right, it shall conclude, the heirs and succes-
 “ sors. Dal. 41. Cro. 186. a. b. Prior of Stokes Case.

Justices of Peace where a decayed Bridge is,
 may award Proces into the County where the
 party or land chargeable is. Dal. 40.

A Bridge lying within a Corporation, the
 Hundred shall not bee charged therewith. Et e
 converso. Dal. 40. 41. Cro. 187. b.

A Bridge lying in two severall Counties,
 either must reparaire his part. Dal. 40. Cro. 187. b.

“ A common Bridge lying within a Fran-
 “ chise, they must reparaire it. Cro. 187. b. Dal. 40.

“ A man is to reparaire some arches at the end
 “ of a Bridge : if the Buttresses be decayed, hee
 “ is to follow the course of the water, and to
 “ reparaire the high way without leave of the
 “ owner of the land, and lay stones, &c. neces-
 “ sary, upon the adjoyning land of another.
 “ Cro. 186. b. Dal. 42.

“ He that is bound to reparaire a Bridge, must
 “ maintaine the way at each end. Cro. 186. b.

Buckstalls

Buckstalls.

One suspected to have offended against the statute, 19.H.7.c.11. of deer-hayes, and buckstalls, &c. is to be examined by two Justices at Quarter Sessions, and being convicted by his owne examination onely, is to bee imprisoned till hee finde surety for the forfeiture. 19.H.7.c.11. Lam. 535. 630. the tenth part whereof the Justices examining shall have. *ibid.*

Buggery.

The sin of Buggery with a man or Beast, is felony. 25.H.8.c.6.5. El.c.17. Lam. 227. 256. 421.

Bull from Rome, *vide* Treasons.

Burglary.

Burglary is when one or moe in the night time do break a dwelling house, or a Church, or the wals or gates of a City or walled Town, with an intent to do felony, albeit they carry away nothing. Dal. 256. Lam. 258. 423. Cro. 31. 2. nu. 1.

The night is from sun-setting to sun-rising, *ibid.* Lam. 259. 423. 424. Dal. 256.

What act shall make a burglary without entring into the house.

Putting back the leafe of a window. Dal. *ibid.* Lam. 262.

Drawing the latch of a doore. Dal. *ibid.* Cro. 33. b. Lam. *ibid.*

Turning the key being on the inside. Cro. 31. b. Dal. *ibid.* Lam. 262.

Breaking

Breaking the glasse-window, and hooking out of goods. *Lam. ibid.*

Making a hole in the wall, and shooting one within the house. *Dal. 256. Lam. 262. Cro. 31. b. nu. 7.*

The doore being open, to put his hand over the threshold, and discharge a dag at any within. *Dal. ibid. Cro. 32. a. nu. 11. Lam. 263.*

They within cast out their money for feare, and they without carry it away. *Cro. 31. b. nu. 9. Lam. 261. 262. Dal. 257.*

Without breaking the house.

To set foot over the threshold with a felonious intent. *Dal. 257. Cro. 32. a. nu. 13.*

To come downe by a chimney. *ibid.*

To come in by help of a key. *Cro. 31. a. nu. 8. Lam. 262. Dal. 257.*

To enter the doores being open, and the owner flying to his chamber, to shove at the chamber doore. *Dal. ibid. Lam. 262. Cro. 32. b. nu. 25.*

If pretending to bee robbed, by help of the Constable for search they rob the owner. *ibid. Lam. 263. Dal. 257. Cro. 32. b. nu. 24.*

If upon conspiracie with a servant, the servant openeth the doore, and the thiefe entreth. *Dal. 257.*

One entring, and the rest standing about the house, or not farre off. *ibid. Lam. 264.*

To enter under the threshold.

What place makes Burglary.

Publike, as Church, wals or gates of a City or Towne walled : Private, as a dwelling house, if any be within. *Dal. 257. Cro. 33. a. nu. 32. Lam. 260. 261.*

The

The family for part of the night is abroad, and in the interim the house is robbed. *Dal.* 258. *Cro.* 33. b. nu. 40.

A man hath two dwelling houses, and dwelleth sometime at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken. *ibid.* *Cro.* 33. b. nu. 40. *Dal.* *ibid.*

To break a chamber in a Colledge or Inne of Court, though no body is in the chamber. *Dal.* 258. *Lam.* 261. *Cro.* 33. a. nu. 29.

Breaking a barn or stable neere to a dwelling house, to the intent to steale. *Dal.* *ibid.* *Cro.* 32. *Lam.* 261.

Robbing a back-house. *Dal.* *ibid.*

To enter to ravish a woman. *Quære* *Dal.* 255.

The Hoste of an Inne breaking into his Guests chamber to rob him. *Dal.* 258.

what not.

Entring onely with intent to beat. *Dal.* 259. *Lam.* 264.

Breaking and departing without entring. *Lam.* 262. but it is felony. *ibid.* *Lam.* 261. it is not burglary in one under 14. yeeres of age. *Dal.* 259.

Nor in poore persons, that upon hunger break and steale under the value of 12. pence. *Dal.* 260.

Nor in naturall fooles, or *non compos mentis.* *ibid.*

Burning of houses.

Malicious burning of houses, being dwelling houses, or barne with corne in it is felony. *Dal.* 273. *Lam.* 266. 424. *Cro.* 31. 2. nu. 3.

Burning

Burning of houses.

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Burning of an empty barne in the night feloniously, if it be nigh a dwelling house. *Dal.* 274. *Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felony. *Lam.* 266.

"One intending to burne anothers house fireth it, and part only is burned and quenched, it is felony. *Dal.* 274.

"One shooteth unlawfully in a hand-gun, and the fire setteth another mans house on fire, and burneth it downe, it is felony. *Dal.* 274.

Burning of a stack of corne feloniously. *Dal.* 274.

Butchers.

Butcher gashing a hide whereby it is hurt, loseth 20. pence. 1. *Jac.* c. 22. *Lam.* 462.

Butchers watering any hides, except in June, July, or August, lose 3. shill. 4. pence an hide. *ib.*

Butcher or any other killing calves to sell under five weekes old, loseth 6. shill. 8. pence a calfe. *Lam.* 453.

Or killing any weanling, bullock, steere, or heifer, under the age of two yeeres. *Lam.* 453, 24. *H.* 8. c. 9. *vide* Victuallers.

Butter and Cheese, *vide* Victuals.

Butts.

Inhabitants of a Towne, not continuing their Butts as they ought, are to lose for every three moneths 20. shill. 33. *H.* 8. c. 9. *Lam.* 481.

Buying and selling, *vide* Cartell.

Calves

Calves and Kine.

ANy killing Calves to sell under five weeks old, lose for every one 6. shillings 8. pence, 1. *Fac. 22.*

Any feeding in his owne ground fit for milch Kine, wherein none hath common, above 120. Sheep more than for his owne provision, must raise one Calfe for every 60. Sheep, or lose 20. shillings a moneth for each Calfe, and keep one milch Cow for every ten Oxen, Runts, &c. so fed, if he feed above twenty. And for every two milch Kine must reare one Calfe yeerely, except it dye, upon the like paine. 2. & 3. *P. & M. c. 3. 13. El. c. 25. 7. Fac. c. 8. Lam. 453.*

Offences against this statute are determinable at the Quarter Sessions.

Captains.

Any Muster-masters taking reward for discharging any from service, lose ten times so much, or 20. li. 2. *E. 6. c. 2. Lam. 482. 483.*

Captains, or others, having the charge of men for warre, keeping back part of their pay, lose to their souldier treble so much as is not paid: or for gaine licencing any to depart, lose ten times the gaine. 2. *E. 6. ibid.*

Vide plus Travelling.

Castle, *vide* felony.

Cattell.

Buyer of live Oxen, Runts, Steeres, Kine, Calves, Sheep, Lambs, Kids, and Goats, if he sell

Certificate.

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sell them within five weekes after, loseth the double. *5.E.6.c.14. Lam. 452. vide Badgers.*

Certificate.

Recognisance and release of the Peace, both are to be certified at the next Quarter Sessions. *3.H.7.c.1.* but no paine by the statute to the Justice if he do not. *Lam. 111. Dal. 177. Cro. 139. 2.nu.111.*

One that is bound to the Peace, maketh default at the day of his appearance, the Recognisance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that hee hath broken the Peace. *Lam. 589.*

Sheriffe must certifie to the Justices at the next Sessions, indictments lawfully found and taken at his turne or law-day. *1.E.4.c.2.* the penalty is 40.pound.

Clerke of the Crowne must certifie the names of any that have beene out-lawed of felony, or Clerks convicted or attainted upon the letter of a Justice of Peace, or lose 40. shill. *34.H.8.c.14.*

Transcript of every attainer, outlawry, or conviction had before the Justices of P. must be certified into the Kings Bench by the Clerke of the Peace within 40. dayes after the attainer, if it be in Terme; if not, within 20. dayes after the beginning of the next Terme, on paine of 40. shillings. *34.H.8.c.14.* Clerke of the Peace must certifie to the Ordinary a transcript of the Clerkes convicted or attainted, *34.H.8.*

cap.

cap. 14. Quare, because by 18. *El. c. 6.* no delivery to the Ordinary. *Lam. 588.*

Custos Rotulorum of the County where one is attainted as principall of felony, upon writing of the Justices of the Gaole delivery, or Oyer and Terminer of another County where one is accessary unto the other, must certifie what is done with the principall. 1. *E. 6. c. 24. Lam. 588. 589.*

Where the Justices are to receive indictments and no power to proceed upon them, they must certifie them into the Kings Bench without *Certiorari. Lam. 589.*

Abjuration of a seditious sectary made in open Quarter Sessions, must bee certified at the next Assises unto the Justice of Assise. 35. *El. c. 1. Lam. 590.*

Presentment that goods and chattels of one attainted of felony be in others hands, it is to be certified in the Kings Bench, or Exchequer. *Lam. 590.*

Recognizance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth five Markes. 5. *E. 6. c. 25.*

Certificates of dockets of Purveyors, *vide Purveyors.*

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide Clerks of the Peace.*

Certificate of Ryots, *vide Ryots.*

Certificate of *Certiorari, vide Certiorari.*

Certificate of Examinations, *vide Examinations.*

Vide plus Recognisance.

Certiorari.

Certiorari is to remove Indictments or other Records to bee fully heard, where the Iustices cannot proceed; or bee reversed, where they have proceeded erroneously. *Lam. 591.*

A Certiorari issueth out of the Chancery, and the Records are removed thither, and sent thither by Mittimus to any other Court. *Lam. 591.*

Certiorari to remove matters of the Crown, need not containe the cause of the removing. *Lam. 514.*

Certiorari into the Chancery hath in *Cancellaria*, into the Kings Bench *nobis mittatis*. *Dal. 416. Cro. 132.2.*

Certiorari may command either the Record it selfe, or the tenour of the Record. *Cro. 131.b. Lam. 515. Dal. 416.*

Certiorari is to bee directed to the Iustices. *Lam. 515.*

Iustices of Peace ought upon Certiorari to remove the Record, though the party that brought the Certiorari sueth not after to have it removed. *Dal. 408. Cro. 132.b. & 133.a. Lam. 516.*

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken. *Da. 409. Cro. 132.b. 164.b. 197.b. Lã. 510.*

A certificate of a Certiorari ought not to omit that which did authorize the Just. to make the record, neither ought they to certifie more than the Certiorari warranteth them. *Lam. 516.*

If the Certiorari vary from the Record, the Iustices need not to certifie. *Cro. 132.b. Dal. 416.*

A Certiorari is to send up the Indictment of *A.* in which others are joyntly indicted, the Iustices need not make certificate of any but of *A.* onely. *Cro. 132.a. Lam. 517. Dal. 416.*

A Just.

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him. *Dal.* 416. *Cro.* 132.b. 133.b. but not without Certiorari, if hee bee put out. *ibid.*

No bills of Indictment, ryot, forcible entrie, assault, or battery found at the Quarter Sessions, shall be removed by Certiorari, unlesse it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one moneth after the conviction of the indicted, to the prosecutor such costs and dammagages as the said Justices shall allow, otherwise the Justices to proceed to tryall. 21. *Ja.* c.8. *Dal.* 219. 220.

Vide plus, Certificate and Justices of Peace.

Challenge.

One indicted of felony, may challenge as many as hee will, shewing cause: but without cause hee may not challenge above twenty. 22. *H.8.c.* 14. *Lam.* 554. 28. *H.8.c.* 1.

What shall be a good challenge of a Furor.

That he was an indictor of him. *Lam.* 554.

That he hath no lands to cleere yeerely value of 40. shill. *Lam.* 554.

In Cities and Boroughes, that hee hath no goods moveables worth. 40. pound. *Lam. ibid.*

That hee is not *Probus & Legalis*, as, if hee be attainted of felony, forgery, perjury, &c. *Lam. ibid.*

Champerlic.

Champertie is when one for hope of having part of the thing in variance, moveth, or causeth the suit to be moved at his owne cost, and for it he is to be fined. 33. *E.c.1. Lam. 441.*

Chance-medly, *vide* Homicide.

Chaustisement, *vide* Correction.

Church and Church-yard.

Maliciously to strike with a weapon in the Church or Church-yard, or to draw a weapon to that end, is losse of one of his eares, or having no eares to be marked on his cheeke with the letter F. 5. *Ed. 6. 4. Lam. 419.*

To keep Faire or Market in the Church-yard *ibid. Stat. Wint. 13. Ed. 1. c. 6. Lam. 419.*

Conviction of any upon the statute. 5. *Ed. 6. c. 4.* may bee by the Justices of Peace at their Quarter Sessions, by verdict, testimony of two, or by confession. 5. *Ed. 6. c. 4.*

Execution of the forfeiture upon the statute of striking in Church-yards, to be awarded by the Justices of Peace before the conviction. 5. *E. 6. c. 4.*

Church-wardens.

Church-wardens and Constables, or one of them, or where none be, the Constable of the Hundred must once every yeere present at the Quarter Sessions the monethly absence from Church of Popish Recusants, and the names of every of their children of nine yeeres old and above, abiding with their parents, and as neere as they can the age of their children, and the names of such Recusants servants. 3. *Jar. ca. 4. Lam.*

Lam. 437. penalty 20. shill. Vide Recufants.

Churchwardens are to gather for the prisoners. *vide Prisoners.*

Churchwardens and Overseers of the poore are yeerely to make accompt to two Justices, whereof one ought to be of the Quorum, *viz.*

1 Of all summes received by them rated or not received.

2 Of such stock as they or any of their poore have in their hands. *43. El. c. 2.*

3 What apprentices they have put out.

4 What poore they have set to work or relieved.

5 What poore they have suffered to wander and beg.

6 If they have monethly met to take order for the poore.

7 If they have assessed the inhabitants and occupiers of lands, &c. in their Parish, and such as are of ability with indifferencie.

8 If they have endeavoured to levie and gather such assessments. *Dal. 96. Defaults in any the premisses is 20. shill. ibid.*

“Two such Justices may make their warrants
“both to the present and subsequent Church-
“wardens and Overseers to levie all sums and
“arrearages of every one that shall refuse to
“contribute according to the assessment. And
“in default of distresse commit them to the
“Gaole till payment be made. *Dal. 95.*

Churchwardens and Overseers refusing to make a true accompt to the Justices of all such summes of money, or denying to pay the arrearages, to be committed to the Gaole without baile till accompt made, and the arrearages paid

aid to the new Overseers. *Dal.* 96.

Churchwardens and Constables yeerely upon Tuesday or Wednesday in Easter weeke, must call together the Parishioners.

And first choose Surveyors for the high-ways, *Dal.* 67. 3. *P. & M. cap.* 8.

2 Appoint six dayes for that purpose, to bee before Midsummer next following. *Dal. ibid.*

3 Give notice of the said six dayes openly in the Church the Sunday after Easter. *Dal. ibid.*

Clerk of the Peace.

Clerk of the Peace must be present at the Sessions, to read inditements, and inroll the acts of the Sessions, as also to draw Proces. *Lam.* 393.

Clerk of the Peace must record Proclamations for the rates of servants wages, and inroll the discharge of apprentices. 5. *El. c. 4. ibid.*

He must keepe the counterpain of the Indenture of armour. 4. & 5. *P. & M. c. 2.* Repealed by 1. *Jac.* 25. *circa finem.*

And the bookes of licences given to Badgers and Loaders of corne. 5. *El. c. 12. Lam.* 393.

And of those that are licensed to shoot in guns. 2. *Ed. 6. c. 14.*

He must certifie into the Kings Bench transcripts of inditements, outlawries, attainders, and convictions had before the Justices of Peace within the time limited, under the paine of 40. shillings 34. *H. 8. c. 14. Lam.* 588. & 593.

Recognisance of the Peace is brought in to the *Custos Rotulorum*, & if the partie grieved will not sue it, the Clerk of the Peace may call up-

on it for the King. *Lam. 394.2.H.7.cap.1.*

The office of the Clerk of the Peace is in the gift of the *Custos Rotulorum*. 37. H. 8. c. 1. *Lam. 394.*

What Records the Clerk of the Peace is bound to certifie.

Vide Certificate.

The Clerk of the Peace his fees.

Vide Fees.

He must record presentments for not coming to Church, and the certificate of not taking the oath of Allegiance. 3. *Jac. cap. 4. Lam. 393.*

“Clerk of the Peace is Clerk to the Justices, as the Statute. 12. R. 2. *cap. 10.* nameth him, and not Clerk to the *Custos Rotulorum* only. *Lam. 394.*

“Clerk of the Peace may exercise his place by himselfe, or by his deputie, sufficiently instructed in the Law, and admitted by the *Custos Rotulorum*. *Lam. ibid.*

Clerk of a Justice his fees. *vide Fees.*

Clerk of the Crowne, what Records he ought to certifie. *vide Certificate.*

Clerk of the Market.

Clerk of the Market taking money to dispende with faults, riding with more then six horses, tarrying longer then is necessary, loseth for the first offence 100. shillings, for the second 10. pound, for the third 20. pound. 13. R. 2. c. 4. Clerk of the Market may take no money for any bills. Hee ought to seale no

Eushe!!

Clergie and Sanctuary. 51

Bushell but once. After the first sealing to take any thing is extortion. *Dal. 150.*

Clergie and Sanctuarie.

One Justice of Peace may take out of the Sanctuarie him that is abjured thither, being indited of any offence punishable by death, done after he is become a Sanctuarie man, and may commit him to the Gaole in the County where the inditement is found, till he be tried. *22. H. 8. c. 14.*

In what offences Clergie is not allowable.

Breaking a house by day, and taking away any thing to the value of 5. shillings. *39. El. c. 15. Lam. 564. 565.*

Conjurers or Witches, their aiders and counsellors. *5. El. c. 16. Lam. 564. 1. but Jac. c. 12. repealeth. 5. El. c. 16.*

Receivers or aiders of Seminarie Priests or Jesuits. *27. El. c. 2. Lam. 563.*

Conspiring to burne, take, or raze any Castle or Bulwarke of the Kings. *14. El. c. 1.*

Rape or ravishment, } *18. El. c. 6. Lam. 564.*
Burglarie, }

Carnally abusing a woman within the age of ten yeeres. *Lam. 564. 18. El. c. 6.*

Principall or accessary before the fact of taking away of a maid, widow or wife, that hath lands or substance, &c. *3. H. 7. c. 2. & 39. El. c. 9. Lam. ibid.*

Buggerie. *5. El. c. 17. Lam. 564.*

Murderer. *Lam. ibid.*

Poysoner of malice prepenſed, *Lam. ibid.*
 Robbing in day, or nigh a high-way, *Lam. ibid.*

Horſe-stealer. *Lam. ibid.*

Church-robber. *Lam. ibid.*

Robbing of a houſe, any being in it. *Lam. 564*

Robbing of booth or tent, any being in it. *Lam. ibid.*

Commander of pettie-treaſon. *Lam. ibid.*

Commander of wilfull murder. *Lam. ibid.*

So of robbery in any dwelling-houſe, in or neere any high-way. *Lam. 565.*

Stabbing one who hath no weapon drawne, nor ſtroke firſt, if hee die thereof within fixe moneths. 1. *Fac. c. 8. Lam. 565.*

“To burne any dwelling-houſe, or any part thereof. *Lam. ibid.*

To burne any barne having any corne in it. *Lam. 565.*

Reporting falſe rumours againſt the King, deviſing or writing ſeditious or ſlanderous matter againſt the King. 23. *El. c. 2.*

Souldiers departing without licence of their Captaine. *Lam. 565.*

Souldiers or Mariners, which wander begging. 39. *El. c. 17.*

Or exceed the time of their licence. *ibid.*

Or forge, or uſe forged licence, knowing it. *ibid.*

The ſecond conviction for forging falſe deeds. 5. *El. c. 14. Lam. 566.*

Privily to take away goods or money above 12. pence from the perſon of another. 8. *El. c. 4. Lam. 566.*

Calling

Calling himsef an Egyptian, or keeping them company, contrary to the statutes. 1. & 2. P. & M. c. 4. 5. E. 6. c. 20. Lam. 566.

A confined Recusant refuseth to abjure the Realme, or will not go, or returneth without licence. 3. 5. E. 6. c. 1. 2.

"To acknowledge any fine, recoverie, deed
"inrolled, statute, recognisance, bayle, or
"judgement, in the name of another not pri-
"vie thereunto. 21. Jac. cap. 26. Dal. 276.

To what persons Clergie is grantable

To a bastard.

To bigamus.

To whom not grantable.

Women. vide Women.

One that hath had it formerly, except hee be within holy orders. 1. E. 6. c. 12. Lam. 563.

In what cases Clergie is allowable.

Clergie shall be allowed in all cases, saving such as are mentioned. 1. E. 6. c. 12. or specially since that time taken away. Cro. 118. nu. 33.

Clergie shall bee allowed but once. 4. H. 7. c. 13. Lam. 563. except hee bee within orders. Cro. 118. a. nu. 36.

A Woman convicted of felonie above 12. pence, and under 10. shillings, wherein a man may have his Clergie, shall bee burnt in the hand with T. and whipped. 21. Jac. c. 6.

Upon an attainder by outlawrie, Parliament, standing mure, challenging peremptorily above twenty, where the statute taketh it

away upon conviction by verdict. *vide Lam.* 567. if Clergie shall be denied.

Justices of Peace may give Clergie to a felon, if the Ordinary bee present; but they cannot fine the Ordinary for his absence; but must re-
prieve the prisoner. *Lam.* 551. *vide Ordinary.*

If the Enditement doth not directly agree with the words of the statute that taketh away Clergie, the prisoner may have his Clergie. *Lam.* 566.

After conviction and Clergie allowed, and the partie burnt in the hand, he may be indicted of another felonie. *Lam.* 559. 18. *Eliz.* cap. 6.

Where any man hath priviledge of Clergie, as a clerk convict, and also in all cases of felonie wherein the benefit of Clergie is restrained, excepted, or taken away by statute (wilfull murder and poysoning of malice prepen-
sed; excepted) any Lord of the Parliament, or Peere of the Realme sitting in Parliament, shall, upon his request and prayer, alledging that he is a Lord or Peere of the Realme, though hee cannot read, without burning in the hand, losse of inheritance, or corruption of blood, be adjudged for the first time onely as a clerk convict. 1. *Ed.* 6. c. 12. but in all other cases, wherein Clergie is taken away by any statute since. 1. *Ed.* 6. he is in the same degree as a common person. *P. R.* 213. *vide Ordinary.*

Cloth.

Every Justice beyond Trent hath some power in searching out the deceit of straining or stretching

stretching those countrey clothes. 39. *El. c. 20.*

Any Justice of Peace next unto any Towne corporate or Citie beyond Trent, is to joyne with the Citie or Towne in appointing Overseers for cloth. *ibid.*

Two Justices of Peace must appoint yeerely Overseers of cloth sold in Townes not being corporate, and to sweare them to see execution of that part of the statute which is yet in force. 3. *E. 6. c. 2. Lam. 359. Dal. 42.*

One commanded by two Justices of the Peace to appeare to be made an Overseer of keeping the statute of clothing, and without reasonable excuse refusing, shall forfeit 40. shillings, one halfe to the two Justices. *Lam. ibid.*

Two Justices of Peace may dispose the money rising of deceitfull cloth stretched. 39. *El. c. 20.*

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this statute, and the statute. 4. & 5. *P. & M. c. 5.* shall cause the same to be cut into three equall parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves. 5. *E. 6. c. 6. Lam. 359.*

Justices of Peace faulty in executing the statute against the deceitfull stretching of Northren cloth, lose 5. pound. 39. *El. c. 20.*

Clothier must let his scale of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3. *Ed. 6. c. 2. Lam. 469.*

Cloth is not to bee stretched above a yard and a halfe in length, and halfe a quarter in

breadth, nor to shrink more in wetting, on paine of 40. shillings. *ibid.*

Brownes, Blewes, Pewks, Tawnies, and Violets, must be perfectly boyled, grained, or maddered upon the woad, and shot with good cork or orchall, otherwise the dyer loseth 20. shillings for every offence. 3. *Ed. 6. c. 2. Lam. 469.*

Wooll for Russets, Marbles, Grayes, Bayes, or for hats or caps, must be perfectly woaded, boyled, and maddered, or lose 20. shillings every cloth or wooll for a cloth. *ibid.*

Dying with Brazill, thereby to make a false colour, is losse of 20. shillings a time. 3. *E. 6. c. 2. Lam. 469.*

Putting flax, chalk, starch, or other deceivable things upon any cloth, except Devonshire and Cornwall straits, loseth 40. shillings a time. *Lam. ibid.*

Selling cloth by lesse measure then after the true contents by the yard and inch, loseth 6. shillings 8. pence a yard. *ibid.*

Putting to sale cloth pressed to be used in England, Wales, or Ireland, loseth the cloth or value. *ibid.*

Refusing to be searchers of cloth, or neglecting to search once a quarrer, loseth as the offenders. *ibid.*

Interrupting the search of cloth, is losse of twenty pound. *ibid.*

Kentish cloth above six pound price, must containe betwixt 28. and 30 yards in length being wet, and 7. quarters broad within the lists, and being well dressed, must weigh 76. pound, or lose 20. shillings for want of length
and

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and breadth, and so much for wanting of 4 pound of the weight. 5. *Ed. 6. c. 6. Lam. 470.* See now. 4. *Jac. c. 2.*

Deceit in linnen cloth, whereby it is become worse for good use, is losse of cloth, fine, and imprisonment for a month. 1. *El. c. 12. Lam. 471*

Offences against the statute, concerning the stretching of Northerne clothes, to bee presented by the Overseers at the next Quarter Sessions after the offence, and there to bee heard and determined. 39. *El. c. 20.*

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitfull stretching of Northerne clothes, to be heard and determined by Just. of Assise. 39. *El. c. 20.*

Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by expresse word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriffe. *Lam. 66. 67. 68. &c.*

“ If Just. sit by commission and do not adjorne the Sessions, the commission is void.
“ *Brook Commission. 12. Cro. 188. 2.*

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourne the same. *Lam. 71.*

A new commission of the Peace *hac vice tantum*, will determine the old. *Lam. 68.*

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication.

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plication. *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a special liberty, without words of prohibition, the Justices of the shire may meddle there. *Lam.* 68. 69.

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full Countre, or at the Assises. *Dal.* 11. *Lam.* 69.

The old commission determining by a new, no proceffe or suit hanging before the old commissioners, is discontinued thereby. *Dal.* 12. *Cro.* 189. a. *Lam.* 69.

Accession of a higher title taketh not away the authority of a Justice of Peace. *Dal.* 9. *Cro.* 188. a. *Lam.* 70.

A new commission to heare and determine felonies, determineth the old commission of the Peace, but not concerning the Peace. *Lam.* 71. *Brooke Commission.* 8.

A Justice of Peace, in making justification by vertue of his office, needeth not to shew the commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum*. *Lam.* 387 388. *Cro.* 120. b. *nu.* 13.

By 17. R. 2. c. 10. In every commission of the Peace, two men of law (amongst others) are to bee assigned, viz. to proceede to the deliverance of felons. *Dal.* 30.

Two were joynt commissioners, and it is presented that one onely sate, and fined the Countrey; and it was held void. But if one sit, and it is recorded that it is done before both, it is good: So of Justices of Peace. *Cro.* 121. a. *nu.* 19. & 189. a. for averment
"shall

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“ shall not be taken against the act of the Justices or Commissioners. *Cro.* 189. a.

“ A Justice cannot bee made by writ but by commission, but may be discharged by writ, which is in nature of a *Superfedeas*. *Brooke Commiss. nu.* 18.

“ If the Justices in Eyre, after Proclamation made, do come into the Countrey, and sit there by vertue of their authority, then ceaseth the power of the Commissioners of Peace. And so likewise, if the Kings Bench should remove into the County. *Lam.* 71. *vide Cro.* 188. b. & 189. a. *Brooke Commiss. nu.* 18. But *Lambert* maketh a *Quere*, for that Just. of *Nisi prius* do ordinarily bring a Commission of Oyer and Determiner. *Lam.* 71, and yet no determination of the Commission of Peace.

“ And *Brooke Commiss.* 8. and *Cro.* 188. b. *Un nouvel Commission de oier & terminer felonies determine le ancien Com. del P. quant al Oyer, &c. felonies, mes nemy quant al Peace. Et issint vide Commiss. determine in part, & remaine pur le remnant.*

Commons.

Commons in forrests and elsewhere, must bee driven yeerely within 15. dayes after Michaelmas by the owner or officers, on paine of 40 shillings a time, 32. *H. 8. c.* 13. *Lam.* 483.

Vide plus Horses.

Common Prayer.

If any Minister have refused to use the Common

mon Prayer, or to minister the Sacraments according to the Book of Common Prayer, in such order and forme as is mentioned in the said Book, or wilfully standing in the same, have used any other forme in open Prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said Booke, or any part thereof, for the first offence it is losse of his spirituall living for a yeere, and imprisonment for six moneths without baile: for the second, deprivation and imprisonment for a yeere: for the third, deprivation and imprisonment all his life. 1. *El. c. 2. 23. El. c. 1. Lam. 417.*

Any having in play, song, or rhythme, or by any open word spoken in derogation of the Book of Common Prayer, or any thing therein contained, or having caused or maintained any Minister to say any other Common Prayer, or minister Sacraments in other manner, or interrupting any Minister to say open Prayer, or administer the Sacraments according to the said Book, hee loseth 100. Markes, or sixe moneths imprisonment without baile for the first offence: and for the second, 400. Markes, or twelve moneths imprisonment: and for the third, all his goods, and imprisonment for his life. *ibid.*

Concealment, *vide* Jurours.

Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespasse, hee shall not plead

plead Not guilty : otherwise of a confession *sub modo*, as when he putteth himselfe *sub gratia Regis. Lam. 530.*

Quere whether if he once make a fine, he shall not be estopped to plead Not guilty. Also whether the Just. of Peace may drive the party either to an absolute confession, or to his traverse. *ibid.*

The voluntary confession of an offender against the statute. 1. *Jac. c. 9. 4. Jac. c. 5.* before a Justice of Peace is a conviction and after confession his oath is sufficient prooffe against any other offending at the same time, 21. *Jac. c. 7. Dal. 26.*

Conjuration.

Conjuration of wicked spirits is felonie. 5. *El. c. 16. Lam. 227.*

Vide plus Witchcraft. 1. Jac. c. 11?

Conservers of the Peace.

Coroners are conservers of the Peace, and may in some cases imprison. *Lam. 399.*

Constables are conservers of the Peace within their limits. *Dal. 2. Lam. 14.*

Constables.

Every Constable at the Common-law before the statute 3. *Hen. 7. c. 3. & 1. & 2. R. & M. c. 13.* might baile one suspected of felonie by obligation, or take surety of the Peace by obligation, or commit him to prison that made an affray, till he found sureties. *Lam. 15.*

Constables

Constables or other Officers may lay no hands on two intending to fight, till weapons drawne, or offer of blow. *Lam.* 132.

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them. *Lam.* 132. 133.

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined. *Lam.* 133.

Not so if he be told of it being absent. *Dal.* 33. *at quere contra.* *Cro.* 146. b.

Two fighting in a house, the doores being shut, the Officers may break open the doores to see the peace kept. *Lam.* 133.

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Gaole, *Lam.* *ibid.* or to a Justice of Peace. *Lam.* 133. *Dal.* 33. 35.

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 134.

Constable or Officer may defend himselfe, and apprehend and imprison the party that shall make an affray upon him. *Lam.* *ib.* *Dal.* 35. *Cro.* 147. 2.

One Justice of Peace may command that two Constables bee chosen in each Hundred. *Lam.* 186.

Vide plus Affray, Arrest, Rogues.

High constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders. *Dal.* 3. *Cooke* 11.

43. 44.

Goldschmidt

Choosing

Choosing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell, and use to be sworne at the Sessions, or by warrant from the Sessions. *Dal.* 46.

Vide plus Prison.

Conventicles.

Those are sometimes called Conventicles, wherein many doe impart with others their meaning to kill a man, or to take anothers part in all things. *Lam.* 173.

Champertie also, maintenance, conspiracies, confederacies, and giving of liveries, other then to mentall servants and officers, be contained under the word Conventicles. *Lam.* 173.

Conies *vide* Hunting.

Corne.

Certificate of one Justice of Peace, joyned with the Customer of the place of unlading, and selling of corne, graine, or cattrell carried by water from one place to another of this Realme, unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the statute of forestalling. *5. Ed. 6. c. 14. 13. Elc. 25.*

One having sufficient corne, buying seed, without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double. *5. Ed. 6. c. 14. Lam. 451.*

Vide plus Transportation.

Cutter

Cutter and carriers away of corne.
vide Hedge-breakers.

Coroners.

Coroners ought to certifie their inquisitions at the generall Gaole delivery, and not at the Sessions. 1. & 2. P. & M. 13. *Lam.* 395.

Coroners being parties to the exigents, and Judges of the outlawrie, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners may bee convicted of offence against the statute of 1. H. 8. c. 7. by examination of witnesses and touching extortion or not executing their offices, before a Justice of Peace. *cro.* 130. b. *Lam.* 434.

Coroners fees, *vide* Fees.

Cottages.

Any erecting, or converting any dwelling, to be used as a cottage for dwelling, unless he lay foure acres of his owne free-hold inheritance lying neere to the said cottage, to bee continually manured therewithall so long as that cottage shall be inhabited, forfeiter ten pounds, except in a Citie, corporate or market Towne, or ancient Borough, or being the dwelling house of workers in minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coale, not being above a mile from the workes, and onely used for the habitation

habitation of such workmen, or for sailers, or men of manuell occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chace, warren, or parke; or cottage for a common herdsman or shepheard of any towne, or wherein any poore, lame, sick, aged, or impotent person shall dwell; or hath beene decreed to continue for a dwelling by the Justices of Assise, or of the Peace in open Assises or Quarter Sessions. 31. *El. c. 7.* 39. *El. c. 3.* 43. *El. c. 2. Lam. 476.* 35. *El. c. 6.* for continuing the cottage 40. shil. a moneth.

None to maintaine or uphold any cotrage, not having foure acres to it, except as before. *ibid.*

Owner or occupier of a cottage must not suffer more households then one to dwell in a cottage. 31. *El. c. 7.* except it be by order of the Justices at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or Countie. 39. *El. c. 3.* 43. *El. c. 2. Lam. 611.* Offences against the statute of cottages and inmates, are to be heard and determined at the Quarter Sessions. 31. *El. c. 7. Lam. 614.* and a Decree may be made at the Quarter Sessions for continuance of a cottage that hath not foure acres of land. *ibid.*

“A Decree may bee made at the Quarter Sessions for the continuance of a cottage that hath not foure acres of land. And the Just. may enquire, heare and determine of cottages and inmates against the statute of 31. *Eliz. c. 7. Lam. 614.*

Countie.

A Justice of Peace in one County, pursuing a felon into another Countie where he is taken, hee shall bee committed to the Gaole of the Countie where he was taken. *Dal.* 297. 298.

Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession money or goods of other mens, by colour of false privie tokens, or counterfeit letters, and convicted thereof at the Quarter Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33. *H. 8. c. 1. Cro.* 83. a. 130. b. *Dal.* 48. *Lam.* 442. 535. 569. 609.

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or baile them, untill the next generall Sessions. *Dal.* 48.

One Justice of Peace (as it seemeth) may bind Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction. *Dal.* 48.

Crosses. *vide Agnus Dei.*

Crosse-bowes and Hand-guns.

Every person may attach an offender against the statute. 33. *H. 8. c. 6.* and carry him to the next Justice of Peace in the same Countie. *Dal.* 65.

The Justice upon due consideration may send the offender to the Gaole, till he have paid the penaltie of the statute of 33. *H. 8. c. 6.* *sc.* 10. li. The

Crosse-bowes and Hand-guns. 67

The particulars of the said Statute.

1 None under an 100. pounds *per annum* may shoot in, or keep gun, dag, pistoll, crosse-bow, or stone-bow.

2 No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100. pounds *per annum* may seize the gun, and must breake it, or lose 40. shillings, if hee breake it not within twentie dayes. *Lam.* 296. 480. but may keep the crosse-bow or, stone-bow. *Dal.* 65.

3 No person not having an 100. pounds *per annum*, may carry in his journey any gun charged, or bow bent, but onely in time and service of war, or going to the musters.

4 None may shoot in a gun neere to a market Towne, but in defence of his house or person, or at a Butt.

5 The master may not command the servant to shoot, except at a Butt or Bank of earth, or in warre.

Exceptions out of the Statute.

1 Shooting at a Butt or Bank of earth by serving-men, whose masters are inabled by statute.

2 Inhabitants of market Townes.

3 Dwellers alone, or neere the Sea-side.

4 Gun-makers or Gun-sellers.

5 Those that have placards may shoot according to their placards. *Dal.* 65. 66.

Any under the value of 100. pounds *per annum*,

68 Crosse-bowes and Hand-guns.

num, licensed to shoot in Crosse-bow or Hand-gun, is to present his name to the next Justice, by him to bee presented and recorded at the next Quarter Sessions, or else the Justice to lose 20. shillings. 2. *Ed. 6. c. 14. Lam. 301. Que- re* if this be now in use.

Any licensed at Quarter Sessions to shoot in Hand-gun or birding-piece for Hawkes meat, is to shoot onely at fowle not prohibited, and to be bound in 20. li. 1. *fac. c. 27.*

Any two Justices of Peace may commit to the Gaole for three moneths any that shoot with gun or bow at any Partridge, Pheasant, house-Dove, Mallard, or at such fowle, or at any Hare. 1. *fac. c. 27.*

“ If any person not having lands, &c. of the
“ yeerely value of 40. li. or not worth in goods
“ 200. li. shall use any gun, bow, or crosse-bow,
“ to kill any Deere or Conies (except such
“ person shall have any ground inclosed, used
“ for the keeping of any Deere or conies, &c.
“ or bee Keepers or Warreners) any person
“ having in lands 100. li. by yeere in fee or for
“ life, may take from such offender such Guns,
“ Bowes, or Crosse-bowes, and keep them to
“ his owne use. 3. *fac. c. 13. Dal 65.*

Carriers, *vide* Leather.

Customer, *vide* Corne.

Custos Rotulorum.

Custos Rotulorum hath the custodie of the Records and of the Commission, and ought to see that they be brought to the Sessions. *Lam. 387.*

Custos

Custos Rotulorum is alwayes a Justice of the Quorum. *Lam.* 387.

Custos Rotulorum alone cannot summon a Sessions, seeing that he hath no more authority in that behalf then any of his fellowes hath. *Lam.* 382.

Cutpurse.

Taking of the goods of another to the value of 12. d. from his person into his owne possession, without assault or feare, is felony without clergie. 8. *El.c.4.* *Lam.* 270. *Dal.* 262. & *Lam.* 422. 566.

But it will not amount to felonie unto death, unlessse the thing taken be of the value of twelve pence. *Lam.* 270. *Dal.* *Quere.*

The thiefe must have an actuall possession of the thing severed from the person of the owner. *Lam.* 271. *Dal.* 262. *Cro.* 35. a. nu. 17.

Cutting out of tongues.

Cutting out of tongues, and putting out of eyes, is felonie, if it be done of set purpose. 5. *H.4.c.5.* *Lam.* 420.

Cutting of a Pond head.

Destroying of the head or damme of any pond, moat, stew, or severall pit wherein fishes are put by the owner thereof, or have wrongfully fished in any of the same, to the intent to take away the fish against the owners will. 5. *El.c.21.* *Lam.* 446. See 3. *Fac.c.* 13. he is to suffer imprisonment, and to be bound to his good behaviour for seven yeeres.

Decree

Deere and Deere-hayes.

Justices of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justices of the Forrest. 21. H. 7. c. 30. Lam. 505.

One convicted of unlawfull taking or killing of Deere, must pay treble dammages to the partie, three moneths imprisonment, and after to remaine there till he put in sureties for the good behaviour for seven yeeres. 5. EL. c. 21. 3. Jac. c. 13. Lam. 571.

To sell, or buy to sell any Deere, Hare, Partridge, or Pheasant, except house Partridge or Pheasant, or brought from beyond the seas, loseth for every Deer 40 shil. every Hare or Partridge 10 shil. and every Pheasant 20. shillings. 1. Jac. c. 27.

Vide plus Hunting, and Buckstalls.

Demurrer.

If one indicted demurreth upon the evidences, the Justices ought to record it. Lam. 539.

Deputie.

A Judge cannot make a Deputie. Lam. 64.

Divine Service.

Any above the age of sixteene yeeres, that repaireth not faithfully and diligently to his Parish Church or Chappell accustomed, or (upon some reasonable lett) to some usuall place where

where Common Prayer is to bee used upon every Sunday and other Holy-dayes, and hath not there orderly and soberly abiden during the time of such Common Prayer, Preaching, or other service of God, loseth 12. pence for every offence, to be levied by the Church wardens to the use of the poore of the said Parish, and to bee punished by the censures of the Church. 1. *El. c. 2.*

It is lawfull for one Justice of Peace in the limit, division, or liberty where the offender dwelleth, in not comming to Church, according to 1. *El. c. 2.* upon prooffe of default, by confession of the party or oath of witnesse, to call the party before him; and, for want of sufficient excuse and proof thereof to the satisfaction of the said Justice, the said Just. may give his warrant to the Church-warden of the said Parish under his hand and seale to levie twelve pence for every default by distresse, and in default thereof to commit the offender to prison till payment made. 3. *Jac. c. 4.*

Vide plus Resufants, and Sunday.

Doggs, *vide* Hunting, and Partridges.

Drovers, *vide* Badgers.

Dyer, *vide* Cloth.

Drunkennesse.

Any Justice of Peace, upon his owne view, confession of the partie, or prooffe of one witnesse upon oath, hath power to convince any person of drunkennesse. 21. *Jac. 7.*

Any, within six moneths after the offence committed,

committed, lawfully convicted of drunkenness, loseth 5. shillings, to be paid after conviction to the Church-wardens of the Parish where the offence shall be committed; and refusing and neglecting to pay the same, to bee, by warrant from the Just. convicting, levied on his goods; if he be unable, to be set into the stocks six houres, & upon conviction of the second offence to be bound with sureties in ten pound to his good behaviour. 4. *Fac. c. 5.* and for want of sureties to be sent to the Gaole.

If the officer charged is negligent in levying or in correcting, he loseth 10. shillings, to be levied and disposed as the penaltie it selfe. 4. *Fac. c. 5.*

Church-wardens to bee accountable to the use of the poore for the penalties by them received upon the statute of drunkenness. *ibid.*

Constables, Church-wardens, and Tithing-men, in their oaths for their office are to sweare to present offences against the statute of drunkenness. 4. *Iac. 5.*

Offences against the statute of drunkenness to bee inquired after, and presented before the Justices of Assise, or Justices of Peace at their Sessions, and proceeded upon ordinary indictment. *ibid.*

Offenders against the statute of drunkenness not to be twice punished for the same offence. *ibid.*

Ecclesiasticall causes and persons.

Eccllesiasticall persons are subject to arrest for the Peace, unlesse they be attendant on divine

Egges of wild fowle.

73

divine service. *Lam.* 93, *Dal.* 166.

Vide plus Treason.

Egges of wild-foule.

Egges of any wild fowle usually eaten, taken from the place where they were layed, or destroyed betwixt the first of March and the last of June, one yeers imprisonment, and lose
“ after a rate for each egg, *ix*. Eggs of crane or
“ bustard *xx* ^d. butter, heron or shovellack *viii* ^d.
“ mallard, teale, and other wild fowl, one penny 25. *H.* 8. *c.* 11. 3. *E.* 6. *c.* 7. *Lam.* 453.

To take away the egges of any hawk out of the woods or ground of any other person, three months imprisonment, and bound to his good behaviour for seven yeers. 5. *El.* *c.* 21. *Lam.* 446.

To take or cause to be taken upon his owne or other mens grounds, the egges of any falcon, goshawk, lanner, or swan, one yeer and a dayes imprisonment and fine. 11. *H.* 7. *cap.* 17. *Lam.* *ibid.*

Taker or willing destroyer of egges of Partridge, Pheasant, or Swan, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three months, unless hee pay to the Church-wardens of the Parish in one of the places to the use of the poore 20. shil. 1. *Fac.* *c.* 27.

Vide plus Partridges, Pheasants, and Fowlers.

Egyptians.

One Justice of Peace may within one

E

moneth

moneth after the arrivall seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realme, or company with them, or disguise themselves like them, and keepe to his owne use the one moiety, accounting in the Exchequer for the other, restoring to them again their goods, that prove by two witnessses that they were craftily or feloniously stolln from them, upon paine of forfeiture of double the value to the prover. 22. H. 8. c. 10. Dal. 49. Lam. 195. 228. 371. 427.

After the moneth it is felony, and then they shall have the whole. 1. & 2. Ph. & Mar. 4. *Que-
re*, whether the stat. 22. H. 8. be still in force, or altered by the statute of 1. & 2. Ph. & M. c. 4.

Embezeling of records, *vide* records.

Embracer, *vide* Maintainer.

Enditements.

“Enditement is the verdict of Jurours that
“be charged to enquire of the offence that is
“presented to them. Lam. 486.

All enditements ought to contain certainty, and therefore five principall things be requisite in presentments. Lam. 487.

1. The name, surname, and addition of the party endited,

2. The yeer, the day, and place in which the offence was done.

3. The name of the person to whom the offence was done,

4. The name and value of the thing, in which the offence was committed.

5. The

5. The manner of the fact, and the nature of the offence ; as the manner of the treason, murder, felony, or trespassse. *Lam. 487.*

Enditement of the accessory to felony, must contain the name of the principal. *Lam. 488.*

Misnamer in an Enditement shall not bee made good by an *aliàs dictus*. *Lam. 490.*

Where the name of the party offended cannot be knowne, it may be *cujusdam ignoti*, because of the Kings advantage thereby by forfeiture. *Lam. 494.*

Any certainty whereby the day and yeere may be known, is sufficient. *Lam. 491.*

An offence done before midnight, must bee supposed the day before ; if after, then the day after. *Lam. 492.*

One striketh one day, whereon hee languisheth, and dieth on another ; the Enditement must suppose the last day, on which hee died. *Lam. 491.*

Enditement supposing the fact done a day not come, is not good. *Lam. 492.*

Enditement or presentment for an omission, as *A.* hath not scoured such a sewer, needs not to set down day nor yeer. *Lam. 492.*

Enditement supposing an offence done at two severall times, not good. *Lam. 492.*

Certainty of the place.

If no place be named where the offence was done, or a place bee named, whereas in truth there is no such place, the Enditement is void. *9.H.4.c.1. 18.H.6.c.12. Lam. 493.*

If the stroke or poisoning be in one county,

and the death in another county, the Enditement in the county where the death is shall be good. 2. & 3. Ed. 6. c. 24. Lam. 493.

Certainty of the person to whom the offence is done. Lam. 494.

The goods of a Parson of a Church, *Bona Rectoris.* Lam. 468.

The goods of the Church, *Bona parochianorum in custodia Gardianorum.* ib.

The goods of Maior and Comminalty, and the Maior dieth before the Enditement, *bona Communitatis.* Quere, because they have no such name of corporation.

Goods taken in a mans life time, and he maketh executor. and dieth, *bona Testatoris.*

Goods taken after his death, *Testatoris in custodia Executorum.*

Goods hanging over a Tomb, *Executoris. A Grave-stone, bona Ecclesie.*

My goods are taken by a trespassor, and taken from him againe, the Enditement shall be *bona* of him that had the last possession. Lam. 496.

Of the owner in the keeping of the baile, where they were taken from the Bailly. La. 496

Bona capelle in custodia, or bona domus, or Ecclesie tempore vacationis, is good. Lam. ib.

The name of the thing must be comprised, *Lam. ibid.*

Bona & catalla in trespass or felony is not good.

If dead things, it may be *bona & catalla*, expressing the names thereof in certainty.

If

If living things, it shall not say, *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to bee declared in felony to make it appeare petty larceny; in trespassse to aggravate the fault.

Enditement of things *feræ naturæ*, as Deere, Hares, Partridges, or Pheasants, is not good, unlessse they be taken in a Parke or a Warren that be liberties. *Lam. 469. 497.*

Charters, their value cannot bee esteemed. *ibid.*

It must bee said, *Pretii*, of living things. *Lam. 497.*

So of dead things in the singular number. *ib.*

So of things that go by weight and measure. *Lam. 497.*

So of coin not currant. *ibid.*

It must be said, *ad valentiam*, of dead things in the plurall number, not going by weight and measure. *Lam. 497.*

Coin counterfeited. *ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove-house, or young Hawks in a wood, there it must be *pretii* or *ad valentiam*. *Lam. 497.*

Coin currant carrieth his value with it. *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *La. 498.*

Nature of the offence.

Treason must have *Proditorie*.

Murder *Murdravit*, which implieth *ex malitia præcogitata*. *Lam. 500. Cro. 101. a. 103. b.*

Burglary, *Burglariter*.

Felony, *felonice*, *ibid.* so petty larceny, *felonice*. In rape, *felonice raptus*. *Lam.* 501.

Furtus seemeth good without *felonice*.

In felony, *cepit* alone, or *abduxit*, or *asportavit* is not good, *La.* 501. but *cepit & abduxit*.

In trespassse or felony, the words *contra pacem* must be used. *Lam.* 502.

In forcible entry, *vi & armis* be needlesse. *ib.*

Upon a statute, *contra formam statuti in huiusmodi casu editi & provis.* *ibid.*

Where many statutes concern one offence, *contra formam diversorum statutorum*.

Where after an acquittall one shall be endited for the same felony.

Where the first Enditement was void for insufficiency of matter of felony. *Lam.* 556.

Tryall in a wrong County. *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principal, the second Enditement as accessory to the same felony after the fact. *Lam.* 557.

Where he shall not be again endited.

Where the Enditement was good.

Though it were by another name, if hee bee known by both. *Lam.* 555.

Though it suppose the same felony done in another yeer. *Lam.* 556.

Though the Proces was erroneous. *ibid.*

Enditement at the Sheriffes Turn lawfully taken, must be taken by the Justices, and by them

them received. 1.E.4.cap.2. Lam.504.

No Enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum. Lam.48.

Enditement upon penall statute, whereof the King is onely to reap the forfeiture, must be within two yeers after the offence.

And where a common person is, it must bee within one yeer, except the statute doe otherwise direct. Lam.487.

“ Constable presents a fault at the Sessions,
 “ which belongeth to his office, which is allowed by the Inquest, it is good : Otherwise it shall not serve for an Endictment.
 “ Crom.123.b.

“ A man may be indicted for the King upon
 “ any penal statute. Cro.101.a.nu.3.109.a.nu.3

“ If there be two villages in one parish, the
 “ indicted shall bee named of such a village in
 “ *parochia de A.* and not of the parish onely.
 “ But if there bee but one village there, the
 “ name of the parish onely, or the name of the
 “ village onely, or of the village in such a parish is sufficient. And so if there bee divers
 “ hamlets. Cro.102.a.nu.16.

“ In an Enditement, *Si sit de pecunia numerata, exprimere debet numerum & genus pecunie : si massa rudis, tum valorem : si formata, tum qualitatem & pretium : si sit pannus, tunc colorem, pretium, & numerum ulnarum : si animal, tunc genus, pilum, & pretium ; & quod felonice cepit illud contra pacem.* Cro.103.a.
 “ nu.35. Stam.81.

Enquiry.

Justices of Peace may onely enquire, and can proceed no further, as in

1 Certain offences against the Supremacie. 23.*El.c.1.*

2 Treasons, and misprisions of treason, made by the 23.*El.c.1.*

3 Offences against the statute of false rumours against the King. 23.*El.c.1.*

Enquiry of a forcible entry, *vide* forcible entry.

Enquiry by presentment, *vide* Presentment.

Enquiry by Examination, *vide* Examination.

Enquiry by information, *vide* Information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a yeere and a day, the Constable shall make a fine to the value of his goods, but it is no felony. *Lam.134.*

To suffer a felon wilfully to escape, is felony; but a negligent escape is onely to be fined. 1.*R.3.c.13. Lam.440. Dal.276.*

Wilfull escape of one arrested for larceny, man-slaughter *per infortunium, se defendendo*. is not felony; if the act were not felony at the time of the escape. *Lam.230. Dal.278. Crom. 39.a.iii.5.*

Wilfull

Wilfull escape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon: if the escape be caused by a stranger, it is felony. *Lam. 229. Dal. 278.*

Escape suffered by him that receiveth a known felon, is no felony. *Lam. 230. Dal. ib.* but shall be accessory, for that he was not arrested. *Cro. 39. a. nu. 4.*

Vide plus Prisoners.

A prisoner under arrest onely escaping, the escape must first be presented, before hee that suffered the escape shall answer it. *Dal. 278.*

A Justice sendeth for a felon out of the gaol and freeth him without baile; it is felony in the Justice. *Dal. ibid.*

A Justice *pro defectu scientiæ* baileth one notailable, it is but a negligent escape. *Cro. 39. b. nu. 4. Dal. 279.*

Offender upon his examination before a Justice confesseth the felony, who letteth him goe without commitment or baile; it is a voluntary escape, and so felony in the Justice. *Cro. 39. a. nu. 7. 44. a. Dal. 304.*

A Town not walled must answer the escape of a manslayer in the day time. 1. *Cro. 40. b. nu. 1. Dal. 299.*

The Hundred must answer for a man slain out of the Towne, and for insufficiency the County shall be charged. *Dal. ibid.*

Gaoler or other officer suffereth his prisoner to goe abroad for a time, though the prisoner return as hee was prescribed, or let his prisoner goe by baile or baston; it is a negligent escape, and fineable. But *quare*, for prisoners ought to be kept in *salva & ar-*

Et a custodia. Dal. 277. Cro. 39. b. nu. 5.

‘A Constable voluntarily suffereth a thief
‘to drown himself, this is felony in the Con-
‘stable. But if the thiefe (without the assent of
‘the Constable) kill, hang, or drowne
‘himself, it is a negligent escape in the Con-
‘stable. *Dal. 276.*

Voluntary escape of one arrested or com-
mitted for felony, is felony in the Gaoler; if
for treason, it is treason; if for trespassse, it is
trespassse. *Dal. 278.*

Escheators.

Escheators other then those of a City or
Borough, that takes upon him the office, not
haying lands in the Shire of twenty pounds
per annum, or for life at least, or that hath
sold or set to farme the office, or made a depu-
ty for whom he will not answer, and whose
name he doth not certifie within 20. dayes into
the Exchequer, shall be fined 40. pound. 12. E.
4. c. 9. *Lam. 429.*

Escheator taking for execution of any writ
in any County above forty shillings, or for-
ty shillings where the land is not held *in ca-
pite*, shall be fined forty pound. 23. H. 6. c. 17.
Lam. 430.

Escheator taking above 15. shillings for fin-
ding an office not exceeding five pounds a
yeere, loseth forty pounds. 33. H. 8. ca. 22.
Lam. 430.

Eviden-

Evesdroppers.

Evesdroppers which shall by night evesdrop mens houses, are to be bound to the good behaviour, *Dal.* 191.

Evidences.

Justice of the Peace must bind over informers for felony to appeare and give evidence against the felon at the next generall Gaole delivery. *Dal.* 49.

Justice of Peace must bind such as declare any thing materiall to prove the felony, to appeare at the next Gaole delivery, and give evidence. *Dal.* 303.

"If he which giveth evidence of felony to
"a Just. of Peace against another, will not be
"bound to give evidence at the Assises, hee
"shall be committed, or bound to his good
"behaviour. *Cro.* 102. b. 24. 26. *Dal.* 35.

Examination taken by a J. of P. in one countie, may be certified into another countie, and there read, and given in evidence. *Dal.* 303.

Estreats.

Estreats are the extracts of fines, forfeitures, and amerciaments made by the Clerke of the Peace by indentures, the one delivered to the Sheriffe, the other to the Barons of the Exchequer. *Lam.* 581.

Estreats of the penalty for shooting in guns, are to be recorded and sent into the Exchequer
by

by the Justice that had the examination of the matter. *Lam.* 297.

Sheriffe or his minister that shall levie any of the Kings debts, without shewing the party the estreats under the Exchequer seale, shall be fined and pay treble damages to the party. *42.E.3.c.9. 7.H.4.c.3. Lam.* 432.

He that estreateth issues of others then such who were chargeable or charged, loseth 5. Markes to the King, and as much to the party. *27.El.c.7. Lam.* 432.

Examination.

Felon brought before a Justice, must be examined before he be committed to prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appeare and give evidence at the next Gaole delivery. 2. & 3. *P. & M. c.10 Lam.* 212. *Dal.* 49.303.

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum*: but the offender shall not be examined upon oath. *Dal.* 307.

Circumstances observable in examination of a felon. *Lam.* 218. *Dal.* 303. *Cr.* 98.a.

In what offences conviction shall bee by examination. *vide* the severall offences.

Conviction cannot be by examination onely, but where the statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it. *Lam.* 534.

Where

Where the statutes limiteth conviction to be by examination generall, a Justice of Peace may examine as well the offenders as witnesses *Lam. 535.*

Where the examination of a Justice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to informe the Jury upon that enditement, it needs not. *ibid. Lam. 536.*

Examination of witnesses is to be taken as well against as for the King. *Dal. 300.* but *quere* whether it may be upon oath, which maketh against the King.

Confession of an offender before a Justice of Peace is not conviction, except he confesse the same againe upon his triall or arraignment *Dal. 311.*

“Justice of Peace may examine upon oath
“him that informeth against a felon: for the
“informer may dye before the assises, and then
“the information without oath is not of such
“validity. *Dal. 307. Lam. 215. Cro. 194. a. nu. 5.*

Extolling forrain power, *v. Treason,*

Extortion.

Ordinary, Archdeacon, Official, Sheriffe, Escheator, Coroner, Under-Sheriffe, Bailiff, Gaoler, or other Officer, that by colour of his office taketh more then his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam. 434 &c.*

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable. *Cro. 57. b. nu. 2.*

The Sheriffe or Gaoler taking any thing of
a Con-

a Constable for bringing a felon to the Gaole, it is extortion. 4.E.3.c.10. Cro.57.b.nu.5.

“ The Gaoler takes viii.^d. of one in prison
“ to let him have liberty, easment, or favour,
“ it is extortion. Cro.59.a.nu.26.

If the Ordinary or his minister take any thing to allow a Schoolmaster to teach children. 23.El.c.1. Cro.58.a.nu.13.

“ If the Ordinary take ought for letters of
“ administration or probates of wills, where
“ the goods amount not above 5.li. wherein
“ the writer shall have vi.^d. onely: or if they
“ be above 5.li. and not 40.li. the Ordinary
“ 2.s.6. d. and the writer 12. and if above 40.
“ li. the Ordinary 2.s.6.d. and scribe 2.s. 6. d.
“ or 1.d. for every 10. lines ten inches long, at
“ the writers choice. Cro. 61.nu.52.21.H.8.
“ c.6. it is extortion, and the Ordinary for-
“ seiteth 10.li.

Vide Fees.

The Marshall detaining a Prisoner after he is discharged by the Court, for any thing due to him but his fees. Cro. *ibid*.

The Ordinary citing a lay person to appear in the Spirituall Court, to depose there as a witnesse. Cro.59.b.nu.35.36.37. & 60.nu.44. 46.48. & 231.a. & Fitz.J.P. fol. penul. it is extortion.

Vide plus Fees.

A man prescribeth to have 4. pence of every one whose beasts are taken in his ground, damage sesant being impounded, and to make amends to him at his will, it is extortion if he take it. Cro.58.b.nu.18.

To take any thing for a mortuary, contrary

to the statute, 21.H.8.c.6. where the goods come not to twenty Nobles besides debts, or for married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he died, is extortion. *Cro. 59.a.nu.27. 21.H.8.c.6.*

“To take above 3.s.4 d. for a mortuary,
 “when the goods amount to 10. markes and
 “under 30.li. or above 6.shillings 8. pence,
 “where the goods are 30. pounds, and under
 “40.pounds: or above 10.shill ngs, where the
 “goods are above 40.pounds, the debts payed,
 “is extortion. *Cro. 59.a.nu.28. 21.H.8.c.6.*

Faires and Markets.

HEe that keepeth a Faire or Market in a Church-yard, shall be fined. *Stat.Wint. 13.E.1.c.6. Lam.419.*

False imprisonment, *vide* Arrest.

False tokens, *vide* Cozeners.

Fees.

The Sheriffe shall have upon arrest by Bill, Writ, or Warrant, 20. pence, the Bailiffe that maketh the arrest, 4. pence; the Gaoler, if he be committed, 4.pence; and for the obligation 4.pence, and no more, on pain of 40.pounds. *23.H.6.c.10. Cro.58.b.nu.18. 176.b.nu.19.*

Bailiffes of liberties are to have like fees as the Sheriffes and their ministers have out of liberties, and like punishment for extortion. *27.H.8.c.24. Lam.434. Cro. ibid.*

Clerk

Clerke of the Peace to be fined.

For taking above 12.d. for inrolling a bargain and sale of lands not exceeding 40. shillings a yeere, or 2.shil.6.pence if it doe exceed 40.shil.a yeere. 27.H.8.c.16. and the Justice of Peace the like for taking above the said sums in the said cases. *Cro. 59.a. Lam. 436.*

For taking above 12.pence for a recognisance of one that taketh a rogue into his service for a yeere. 14.El.c.5. *Lam. ibid.*

For taking above 2.shillings for a licence and recognisance of a Badger, Drover, Lader, or Kidder, and registering the licence of them both. 5.El.c.12. *ibid.*

For taking above 12.pence for a licence and recognisance to shoot Hawks meat. 1.Jac.c.27.

Clerke of a Justice of Peace to be fined for taking above 12.pence for a recognisance of an Ale-house-keeper. 5.E.6.c.25. *Lam. 436.*

Coroner refusing to doe his office of one slain by misadventure without fees, loseth 40. shil. 1.H.8.c.7. *Lam. 434.*

Coroner taking above 13. shillings 4. pence for doing his office of one slain and murdered, of the goods of the slayer and murderer; if he have none, of the towne where he was slain in the day, and was suffered to escape. 3.H.7.c.1. *Lam. ibid.*

Maiores to have for sealing.

Busshels and other measures, a peny.
Weights, viz. a hundred weight, 1.peny;
half

half a hundred, a halfpenny; leffe a farthing;
and taking above, they lose 40.shil 7.H.7.c.3.

11.H.7.c.4. *Lam.* 437.

Parson, Vicar, or Curate taking above foure
pence for entring into the Church-booke li-
cence to eat flesh on fish-dayes. 5. *El.c.5.*

Or above 2.pence for registring a Testimo-
niall of any servant going from one place to
another. 5. *El.c.4. Lam.* 435.

Ordinary or his scribe or register, that hath
taken more for the probate of a testament or
letters of administration then 6.pence for the
scribe for writing the probate of the testament
that shall bee brought written in parchment,
and 6.pence for the administration, where the
goods be not above 5.pound; if above 5 pound
not above 40.pound, then 2.shillings 6.pence
for the Ordinary, and 12.pence for the scribe:
if above 40.pound, 2.shillings 6. pence for the
Ordinary, and 2.shil. 6.pence for the scribe; or
1.peny for every 10.lines 10. inches in length,
at the scribes election: and the like for every
coppie of a testament or inventory, or else af-
ter the rate of the lines as before, loseth 10.li.
and so much as is taken, to the party. 21.H.8,
c.6. *Cro.61.a.nu.52. Lam.* 434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or Minister of the King
that taketh of any that hath fee or pension of
the King, other fee then is given by ancient
lawes and statutes, *viz* 4.pence for payment of
every summe, forfeiteth 6. shillings 8. pence.
33.H.8.c.39. 7.E.6.c.1. *Cro.* 58.a.nu.9.

Taking above 4.pence for impounding one
distresse, loseth 5.pound to the party grieved,
besides

besides such mony as hee shall take above the summe of foure pence. 1. & 2. P. & M. c. 12. ib.

"A man attainted of trespasse commeth in
 "gratis, and findeth surety for his fine, hee
 "shall pay no fees to the Sheriffe or Gaoler,
 "Cro. 176. a. nu. 6. so of him that is indicted
 "before Just. of Peace, and is committed till
 "he pay his fine.

"The officer is to take nothing of him a-
 "gainst whom processe is granted to come be-
 "fore a Just. of Peace to finde surety for the
 "peace. Cro. 176. a. nu. 8.

Fees for a Just. of Peace are (*ut dicitur*)
 Cro. 176. a. nu. 9.

"For a recognisance for the peace, 2. shil.

"For a recog. to baile a prisoner, 2. shil.

"For a *Supersedeas* of the peace, 2. shil.

"For a warrant of the Peace under seal, 2. s.

"For release of the peace, 2. shil.

"For a warrant which concerneth not the
 "peace, 4. pence.

"For the recognisance of an Alehouse-
 "keeper, 12. pence. Cro. nu. 10. 5. E. 6. c. 25.

"*Vide plus Dal.* 385.

Felo de se.

A man that kills himselfe, either with a me-
 ditated hatred against his owne life, or out of
 distraction or other humour, is *felo de se*, and
 forfeiteth his goods reall and personall chat-
 tels to the King, and debts due upon speci-
 alty, and also upon simple contract, or without
 specialty. Co. 4. 95. a. Dal. 240.

"Two fighting, the one of them falleth on
 "the

the ground, and draweth his knife, the other falling upon him, doth also fall on the knife and is slaine, he is in a sort *felo de se*. *Dal. 274. Cro. 28. a. nu. 7. Pax reg. 122. b. Sta. 16. a.* An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth. *Dal. ibid. Lam. 247.*

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record. *Dal. ib.* He forfeiteth no lands, nor is his blood corrupted. *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of P. may inquire thereof, and a presentment before them intituleth the King to his goods. *Dal. ibid. Coe. 5. 110. b.*

Felonic.

Felonies are either { Common law,
by the { Statute law.

By the Common law, all kind of homicide not warranted, Burglary, Theft, Burning of houses, Rescous, and Escapes. *Da. 238.*

Vide their severall titles.

Felonies by statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realme, or any sworn to the Kings Councell, or the Steward, Treasurer, or Controller of the Kings household, 3. H. 7. c. 14. *Dal. 275.*

Breaking

Breaking of prison by one being therein for felony, or a prisoner for felony. *1.E.2.de prisi-
nam frangent. Dal. ibid.*

And if he escape going to the Gaole. *Cromp.
49.b.*

If under arrest for felony or suspicion, whether in the Gaole or out, it is breaking of prison though he be not indicted of felony. *Cromp.
38.a. nu. 1. P. R. 147.*

A stranger breaketh the prison, or openeth the stocks, or makes rescous of one imprisoned or arrested for felony, who escapeth, it is felony in them both. *Dal. 275. Cro. 38. a. nu. 1.*

Quere, if a stranger disturbe the arresting of a felon. *Dalt. ibid. Fitz. Just. P. fol. 114.
Lam. 229*

Rescuing a Prisoner going to execution, is felony. *Dal. ibid.*

Gaoler, Constable, or other having a prisoner under arrest for felony, voluntarily suffereth him to escape, it is felony onely in him that suffereth the escape. *Dal. ibid. Lam. 229.*

If the prisoner escape by negligence of his keeper, it is felony onely in the prisoner. *Dal. ibid.*

Escape before arrest is no felony, but the officer may be endited and fined. *Dal. 276. Lam.
230. Cro. 39. a. nu. 5.*

Buggery with mankind or beast.

Burning of houses or stacks of corn.

Congregations and confederacies holden by Masons.

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marsh-land.

Conjuration or invocation of evill spirits.

1. Jac. 12.

Consulta-

Consultation with an evill spirit, &c. *Vide*
Fac. 12.

Embezeling the Kings ordnance, armour,
&c. to the value of 20. shillings, though at sever-
al times. 31. *El. 4. Dal. 287.*

Embezeling of any record,
it, &c. 8. *H. 6. c. 12. Dal. ibid.* } *These two be-*
Rasing of a record is fine- } *long nas to Ju-*
le at the Kings will, &c. } *stices of the P.*
R. 2. c. 4.

Forging of evidences, &c. the second time.
El. c. 14.

Gaoler enforcing his Prisoner to become an
prover.

Hawks embezzelled, and not brought to the
crisse.

Hawkes concealed, or stollen from the ow-
ner.

Hunting Deere or Conies in the night, and
upon examination concealing the offence, or
obeying the arrest for such offence.

Taking a tame beast or other thing in a
park by way of robbery.

Marrying a second husband or wife, the
first living. 1. *Fac. c. 11.*

Multiplication of gold or silver.

Infected with the plague, going into com-
pany contrary to command. 1. *Fac. c. 31.*

Wilfull poysoning, if the party dye within a
year and a day after.

To receive, relieve, or maintaine Popish
Priests.

Recusants refusing to abjure, or return after
departure.

Peruayour taking for the Kings house
any

any thing above twelve pence.

1 Without warrant under the great seal
Vide Dal. 284.

2 Buying any thing in any other manner
then is contained in their warrant.

3 Taking any carriage in any other manner
then is comprised in their commission.

4 Shall carry away any thing against the
owners will, without paying or agreeing for
the same.

5 Shall not make his provision and purvey-
ance by the testimony and apprizement of the
Constable and foure neighbours sworn, if the
purveyor and owner cannot agree, and shall
not deliver Tales or Indentures sealed with
his seal touching the same.

6 Or shall take more victuals or carriages
then he shall deliver unto the Kings house.

7 Or take sheep in wooll betwixt Easter and
Midsummer at small prices, or more then be
sufficient for the Kings house, and carry them
to his owne, and sheare them.

In every of these cases it seemeth to bee fe-
lony in such purveyor, their deputy and ser-
vants.

A Chater of any subject or officer taking
any thing against the owners consent, and not
paying presently. 36. E. 3. c. 6. 7. R. 2. c. 8. 23. H.
6. c. 14. *Dal. 287. Cro. 48. a.*

Incorrigible Rogues banished the Realm
and returning without licence. 39. E. c. 4.

Robbing house, barne, or stable in the day-
time to the value of 5. shillings, though no body be
within. 39 E. c. 15. no clergy.

Robbing any house by day or by night, and
perfor

person being therein, and thereby put in fears.
ibid. without clergy.

Robbing any person in part of his dwelling,
any of his household being within, *ibid.* with-
out clergy.

To rob any Booth in Faire or Market, any
person thereto belonging being within sleep-
ing or waking, *ibid.* sans clergy.

Servant (other then an apprentice) to whom
money, goods, or chattels, &c. are delivered to
keep by master or mistress to the value of for-
ty shillings, do go away therewith, or convert
them to his owne use, to the intent to sell the
same, or defraud his master or mistress. 21.H.
8.c.7. 5.El.c.13. Dal.264.

Souldiers going out of the Realm to serve a
forrain Prince, not having first taken the oath
of allegiance. 3.Jac.c.4. Dal.284.

A Gentleman, or of higher degree, Captain,
or other Officer in Camp, going to serve a for-
rainer before he is bound with 2. sureties to the
King, not to be reconciled to the Pope, &c. nor
to make nor consent to any conspiracy against
the King. 3.Jac.c.4.

Souldiers having taken presse-money, not
going with their Captain; or being in service,
departing without licence. 18.H.6.c.19. Cook
6.27.7.H.7.c.2. 3.H.8.c.5.

Mariners and Gunners taking presse-money
to serve the King, and departing without li-
cence. 5.El.c.5.

Souldiers and Mariners which settle not
themselves to some good course of life, but
wander idely. 39.El.c.17.

Souldiers and Mariners landing, and not
having

having a Testimoniall from some Justice of Peace neere their landing. *ibid.*

2 Or exceeding the time limited wilfully, fourteen dayes. *Vide 43. El.c.3.* that they shall be punished as Rogues.

3 Or forge, or have forged Testimoniall, knowing it to be forged.

4 Or being retained in service after arraignment, doth depart within the yeer without the Masters licence. *39. El.c.17.*

"In all these former cases, see the stat. *43. El.c.3.* That Souldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. shall be adjudged and punished as Rogues. *Dal. 285. Vide Rogues.*

Transporting live sheep, the second offense is felony. *8. El.c.3.*

Ravishing a woman with force, though consenting afterward. *13. E.1.3. W.2. 18. El.c.6.*

All abettors in rape are principals. *Dal. 289. Cro. 47.b.*

To ravish a harlot against her will, is rape. *ibid.*

To take any maid, widow, or wife having lands or goods, or being heire apparent to her ancestor, against her will, unlawfully.

And to receive any so taken knowing thereof, or to procure and abett the same. *3. H.7.c.2. Dal. Cro. ibid.*

To abuse a woman carnally under 10. yeers of age. *18. El.c.6.*

To take a mans wife with her husbands goods against her will, or her husbands. *13. E. 1.34. West. 2. Stamf. 94. Dal. 290. Cro. 35. 2. nu. 2.*

Feloni-

Feloniously to take goods out of any Church or Chappell. *Lam. 420.*

A woman delivered of a bastard, doth by drowning or secret burying thereof by herself or other conceale the death thereof, so that it may not come to light, if it were dead born or alive, it is murder in the mother, except shee can prove by one witnesse that the childe was borne dead. *21. Jac. c. 27. Dal. 290.*

To acknowledge any fine, recovery, deed inrolled, statute, recognisance, baile, or judgment in the name of another not privie to the same, is felony without clergie. *21. Jac. c. 26. Dal. 284*

" Felony done in one Kings dayes may bee tryed in another Kings time. *CR. 37. a. n. 31. Dal. 297.*

" A felony is done in one county, and the felon flyeth into another, and is there taken, hee is to be committed to the gaole of the county where he was taken, and be removed by writ to the gaole of the county where the felony was done. *Dal. 298.*

" For stealing goods in one county, and carrying them into another county, the felon may be endicted in either county. But for robbery the endictment must be in the county where the robbery was. *Dal. 298. Bro. cor. 140. indict. 26.*

" One stealeth stollen goods, the owner may endict the first or the second. *Dal. 298.*

" Any man may prosecute for stealing *bona ignoti.* *Dal. ibid.*

" If the owner will not charge the felon, any other (after proclamation made, *If any will informe for the King*) may safely informe,

“indict and give evidence. *Dalt.* 298. But

“A Justice of Peace hearing of any that can
 “informe, may send for him, examine him,
 “and bind him to give evidence. *Dal.* 298.

Felony of his own goods, *vide* Theft
 Ferrets, *vide* Hunting.

Fewell.

One Justice of Peace may set on the Pillory, in the next Market towne to the place of offence, any person convicted of breaking the assise of fewell, and not able to pay the forfeiture, there to be at eleven of the clocke on the Market day, with a billet or faggot bound to some part of his body. *Quere*, whether one Justice may convict him alone. 7. *E. 6. cap. 7.*
Lam. 196.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender, for the offence committed against him. *Lam.* 574.

Upon payment of the fine, or upon pledges found by a recognisance to pay it, the offender ought to be delivered. *Lam. ibid.*

The assessment of fine belongeth to the Justices before whom the conviction is lawfully had. *Lam.* 576.

Strander by when a man was slaine, is to be imprisoned till hee make his fine, because hee did not his best to attach the murderer:

so of other felonies. *Lam.* 132.289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Justice of Peace, and by him committed to the gaole, shall be assessed by the same Justice, and upon bonds with sureties he may enlarge them. *Tamen quere*: and estreat it, and send it into the Exchequer: but it is best to leave the fine to the discretion of the Kings Bench. *Lam.* 158.159. *Dal.* 58.

Upon conviction for offences, where no fine certaine is limited, no fine can be assessed till the offender be brought in by *Capias pro fine*, or otherwise, unlesse it bee for Ale-houses and High-ways. *Lam.* 573.

• Where any statute speaketh of fine and ransome, the ransome ought to bee at least treble the fine. *Lam.* 575. the opinion of Sir Edward Cooke is, that fine and ransome are all one, *vid.* well discussed. *Cok. institut.* 127.2.

Where the statute maketh an offence fineable in generall termes, or at the Kings will, the Justices of Peace before whom the conviction is had, may assesse the fine, which is fittest to be done in open Sessions. *Lam.* 576.

Fines upon the statute of tyles, of crosse-bowes, and of alehouses, by expresse words of the statute, may not be altered. *Lam.* 578.

Fines must be reasonable and just, according to the quality of the offence. 34. *Ed.* 3. *cap.* 1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Justices of Peace are to assesse the fine by their discretion, and to deliver the party. *Lamb.* 574.

Fines of Rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide* Affise of bread.

Fish.

Stealers of fish out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths imprisonment, and to the party grieved his treble dammages. 5. *El.* 21 *Lam.* 446. See 3. *Jac.* 13.

If any cast nets into waters, by which the fry of fish may be taken, or take Salmones betwixt the nativity of Mary and S. Martin, or young Salmones betwixt the midst of April and Midsummer, one Justice may punish them for the first offence, by burning their nets and engines; for the second, by 3. moneths imprisonment; for the third, by one yeers imprisonment; and for any of them, by fine at the discretion of the Justice. 17. *R.* 2. c. 9. *Lam.* 190. 454. 576.

Forfeitures upon the stat. 3. *Jac.* c. 12. where any offence is committed, in destroying the spawn or brood of sea-fish, may be levied by distresse and sale of the offenders goods, by warrant from one Justice of Peace to the Constables or Church-wardens. 3. *Jac.* ca. 12. the forfeiture given is 10. shillings, the one moiety to the poore, &c. the other to the person that shall sue for the same.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any dayes now usually observed for fish-dayes,

is for necessity of salvation of soules, or is the service of God, otherwise then other publike lawes be, shall be punished as spreaders of false newes are and ought, &c. 5. *El.c.5.* 1. *Jac.c.29* *Lam.442.*

Fish-dayes.

Any, except aged, sick, with child, or licensed, eating flesh in Lent, or on fish-dayes, loseth 20. shil. and one moneths imprisonment. 5. *El.c.5.* 27. *El.c.11.* *Lamb.458.* 35. *Elif.c.7.* 1. *Jac.c.29.*

Taverners, Inne-keepers, common Tabling-house, Tipler, or Alehouse-keeper, offending against the statutes, 5. *El.c.5.* & 1. *Jac.c.29.* for killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of 5. *El.c.5.* which is 3. pounds. 1. *Jac.29.* *Lam.458.*

Forfeiture upon the statute, 1. *Jac.c.29.* for eating of flesh, except such as be taken by the Justice of Peace, Maiors, Bailiffes, head-officers, or Constables, are to be equally divided betwixt the King and the Informer. 1. *Jac.c.29.* expired.

Licence granted to sick persons to eat flesh on fish-dayes, shall be no warrant for them to eat beefe, mutton, veale, pork, or bacon. 1. *Jac.c.29.* expired.

Butcher or other, though licensed, killing in Lent to sell any ox, beef, hog, calfe, or mutton, except three dayes next before Easter, or oxen, or beefe for victualing of ships, loseth the meat or value. 1. *Jac.c.29.* expired.

Justice of Peace, or head-officer of corporations,

tions, or Constables of Towns, may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beeſe, hog, calfe, or mutton, may ſeiſe on it, and give it to the poore. 1. *Jac. c. 29. EXP.*

“Biſh. of the Dioceſſe, Parſon, Vicar, or Curate of the Pariſh where one is ſicke, may grant licence for eating of fleſh, which muſt be ſigned with the hand of the Biſh. Parſon, &c, and endure no longer then the ſickneſs. 5. *El. ca. 5.*

“Any perſon granting licence without need loſeth five marks, and the licence is void. *ib.*
Fleſh, *vide* Fiſh-dayes.

Flaxe.

Forfeiture due to the Informer upon the ſtatute of flaxe and hempe to be levied by what Proceſs the Juſtice will. 24. *H. 8. c. 4. Lam. 584.* but 24. *H. 8. c. 4.* is repealed by 35. *El. c. 7.*

Fleſh, *vide* Fiſh-daies.

Forrain power, *vide* Treason.

Forrain plea, *vide* Tryall.

Force.

Every treſpaſſe in judgment of law is a force, and the action may be, *quare vi & armis. Dal. 199. Lam. 141.*

That which is properly } *Manu forti*, or
force, is either } *Multitudine.*

Manu forti, is violence offered to the perſon
of

of another by deed or word. *Dal. 199.*

By deed, as actuall violence, or to be furnished with offensive weapons not usually born, *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be said to bee armour. *Cro. 74. b.*

Multitudine, where there be two or three in a company, or more. *Dal. 199.*

who shall be said to enter with force.

Forcible entry must be an actuall entry. *Dal. 199.*

If one or more come weaponed, especially with weapons unusually worne, and violently enter into an house or land. *Lam. 142. Dal. 199.*

Much more being entred, if he or they offer violence, or feare of harme to any in possession, or drive any out of possession. *Dal. ibid. Lam. 142.*

Many come to do a force, and one only useth force, all are guilty. *Dal. 204. Lam. 143.*

To enter peaceably, and forcibly to put out another. *Dal. ibid. Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or feare of harme to one in possession, with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

Entring peaceably, and saying they will hold, although they dye for it. *Lam. 146. Dal. 200.*

To enter peaceably with weapons (not usually born by them) to house open or grounds. *Dal. ibid.*

The Master entring with moe servants then usuall. *ibid.*

A trespassse made *manu forti*, or *cum multitudine*, though it be but to cut or take away another mans corn, grasse, or goods, or fell or crop wood, or to doe any other trespassse, though the party be not put out of possession, yet it seemeth forcible entry punishable by the statutes: but otherwise if the entry be peaceable, yet it is disseising with force. *Lam. 143. Dal. 200.*

To enter peaceably, and after entry, by force or violence to cut corne, grasse, wood, &c. or carry away anothers goods, is force. *Dalton 200. Cro. 70. a.*

To distraine for rent due or not due with force, doth countervaille a force. *Dal. ibid. Lam. 144.*

Divers enter where the entry is not lawfull, and all save one demeane themselves peaceably, and one only entreth with force, or after entry useth force, it is forcible entry in all. *Cro. 22. a. nu. 15. 24. b. nu. 43. 34. b. nu. 15. Lam. 143. Dal. 217.*

In all these cases of trespassse, onely the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine. *Dal. 200. 202* and upon view the Justice may instantly commit the offender, and record the force. *Cok. l 8. f. 120.*

Forcible entry by words.

To enter peaceably, and then to offer by threatning to kill the disseise if hee re-enter. *Dal. 200.*

What

What is not force.

To enter by faire meanes, his entry being lawfull, and perswade them within to come out, and the doore being open, or shut by the latch, to enter without multitude, or offensive weapons, or other violence. *Dal. 201.*

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam. 145.*

To take a man being out of his house, and imprison him, and in the mean time to send another peaceably to enter, is no force. *Lam. 146. Dal. 201.*

Hee that onely agreeth to a forcible entry made to his use, is onely a disseisor. *Dal. 204.*

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person. *Lam. 146. Dal. 201.*

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three yeares. *Dal. ibid.*

To deny a Justice of Peace to enter (upon supposall of a forcible detainer) is forcible detainer, though it be but by one person, and no weapons shewed. *Dal. ibid. P. R. 41. Lam. 145. Cro. 70. b. m. 40.*

If the Justice enter, and findeth any armed, or any armour or unusuall weapons lying by them, or find more then the ordinary family. *Lam. 145. Dal. 202.*

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assaile the enterers. *Lam. 145. Dal. 202.*

The disseiser forestalleth the way of the disseised with force, so that hee dare not come neere. *Dal. 202. Lam. 145. Cro 69. b. nu. 26.*

To keep cattell by force where hee hath no common, the Justice may imprison and fine, but not make restitution. *Dal. ibid. Cro. ibid. P. R. 39.*

To detaine a house morgaged by force from the morgager is forcible detainer. *Dal. 203.*

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if hee come againe. *Dal. 202. Lam. 146.*

It seemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the disseised if he come again, *Dal. ib.* for that death may ensue upon such beating or hurt.

What is not forcible detainer.

One entred peaceably into a house, and finding armour or weapons, doth not remove them. *Lam. 145.*

What is not forcible detainer by word

To threaten to burn his house or spoile his goods, to deny to open the doors, to deny to go out. *Dal. 202.*

What

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture. *Dal. 203. Lam. 146. Cro. 70.a. nu. 27. P.R. 39.*

The tenant forestalleth the way by force and armes, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *ibid.*

The tenant maketh rescous of the distresse with force and armes. *Dal. ibid. Cro. 69.a. nu. 26.*

In these cases of rent or common, the Justice may remove the force, record it upon view, imprison and fine, but can award no restitution. Dal. ibid.

What persons may make a force.

One alone, if it be with offensive weapons or turbulent behaviour, to the affray of others. *Dal. 203. Lam. 143.*

An infant of the age of 18. *Dal. ib. Cro. 69.a.* and so he may though he be under 18.

A feme covert may by her owne act make a forcible entry or detainer, and she may be imprisoned and fined, but the fine cannot be levied on the husband. *Dal. 204.*

Consent.

If one command or counsell others to a force, and be present, though he doe nothing,
he

he is a principall, *Dal.* 204. but if absent, a disseiser.

Divers enter, one only committeth force, all are guilty, *ibid.* *Cro.* 22. a. nu. 15. 24. b. nu. 43. 34. b. nu. 15. *Lam.* 143.

Who cannot be put out.

The King cannot be disseised, therefore an enditement upon the statute 8. H. 6. for the King is not good, neither can the Kings Farmer preferre a Bill of Enditement upon the said statute, but must have an Information in the Exchequer. *Dal.* 205. *Cro.* 69. a. nu. 13.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3. yeeres together. *Lam.* 159. *Dal.* 210, 211. and may hire strangers to maintain his possession, & have his company in armour, *Dal.* *ibid.* *Cro.* 71. a. b. but he may not resist the Justice of Peace that cometh to view.

Upon enditement of forcible holding the plea of three yeers lawfull possession next before, avoideth imprisonment, fine, and restitution, *Dal.* 211.

But it holdeth not,

1. If the entry were forcible, though the holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseiser have continued peaceably 3. yeers. *Quere* if hee shall be helped by 8. H. 6.

or

or 31. *Elif. cap. 111.* If a disseiser have forcibly continued his possession twenty yeeres, he may be endited upon 8. *Hen. 6.* and the Justice may make restitution. 14. *H. 7. c. 28. Lam. 160. Dal. 211. Cro. 71. a. nu. 49.*

4. If the possession of three yeeres have been interrupted. *Cro. 71. a. Lam. 162. Dal. 211.*

A disseiser quietly holdeth three yeeres, and after the disseisee entreth or maketh claime, the disseiser re-entring cannot hold with force, for hee is in upon a new disseising. *Dalton 212.*

A lawfull possessor, after twenty yeeres possession is outed, hee can neither re-enter, nor hold with force. *ibid.*

What force is lawfull.

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgement of the law : as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriffe or his Officers to apprehend by vertue of the Kings Writ.

3. A Justice removing unlawfull entries, or holding of possessions, and repressing riotters. *Dal. 208.*

4. Justice, Sheriffe, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or break the Peace.

5. It is lawfull by force to break open doores, to arrest offenders within, if the
Officers

Officer cannot otherwise enter.

Note, that the Officer is first to signifie the cause of his coming, before hee attempt to break open the doores. Dal. 209. as,

First, for treason, felony, or suspicion of felony. *Cro. 170. b.*

2. Where one hath dangerously wounded another. *Cro. 131. a.*

3. An affray being in the house. *Cro. 146. b.*

4. Upon a forcible entry or detainer found by inquisition. *Dal. 208.*

5. Upon a *capias utlagatum* in personall action, or *capias pro fine* directed to the Sheriffe. *Cro. 170. b.*

6. Upon a Warrant or Proces for attaching a Popish Recusant excommunicate. 3. *Jac. c. 4.*

7. Upon a Warrant for the peace or good behaviour. *Dal. 209. 333.* but *Cro. 176. b.* maketh a Quære.

8. Upon recovery in a reall action, or *ejectione firme*, but not to execute the Kings Proces upon the body or goods of any person at the suit of any subject. *Dal. 209.*

9. In cases where the King is party. *ibid.*

Forcible defence is lawfull

1. For every man to keep his house to himselfe, his family and goods, as his castle, as well for defence against injury, as for his repose. *Vide plus Houses. Dal. 209.*

2. In defence of husband, wife, father, mother, or master. *Dal. 184.*

3. Father or mother in defence of the child within age. *Dal. ibid.*

4. In defence of my goods or my land. *Dal. ibid.*

“ An

“ 5. An heire or feoffee may keep possession
 “ by force, if they and their ancestors or feof-
 “ fors, or they whose estate they have, have
 “ been in peaceable possession three yeeres.
 “ *Dal. 210.*

In these cases he that attempteth may be dis-
 turbed; and if he attempt to assault or lame
 me, I may beat him againe, as well in defence
 of my person as possessions, but not kill him.
Dal. ibid.

“ If one will take my goods, I must first lay
 “ my hands on him, and disturb him; if hee
 “ will not desist, I may beat him. *Dal. 185.*

What Justices of Peace are to doe in forcible entry or detainer.

Every Justice upon complaint or notice gi-
 ven, ought at the cost of the party grieved to do
 execution: *viz.*

1. He must go to the place. *Dal. 57. Lam. 147*

2. Take sufficient power of the County, or
 of the Towne, and the Sheriffe also (if need
 be) as well to arrest offenders, as also for re-
 moving of the force, and for conveying them
 to the Gaole. *Dal. ibid. Lam. ibid.*

“ Whosoever of that County shall refuse to
 “ give his attendance, and assist the Just. shall
 “ be imprisoned, and make fine. *Dal. 56. 15. R. 2*
 “ *cap. 2.*

3. Arrest and remove all offenders, and take
 their weapons, and prize them for the King.
Dal. ibid.

If the doores be shut, and entrance denied, he
 may break open the house. *Dal. 57. Quære.*

The

The Justice cannot arrest or remove them, if he find no force, except by enquire. *Dal. ibid.*

4. The Justice ought to make a record of the force, and either keep it by him or indent it, and certifie one part either into the Kings Bench, or to the Clerk of the Peace, and keep the other. *Dal. ibid.*

“One Justice of Peace upon his own view
“of forcible detainer, may record the same by
“15.R.2.c.2. Cro.61.b.nu.9.

“The Justice or Justices recording a force
“upon his or their view, may not put the party
“put out into possession, but must first enquire
“by a Jury, and the force being found, put the
“party outed into possession. *Dal. 59.*

The record of the Justice is a sufficient conviction of the offender, and is not traversable. *ibid.*

5. The Justice ought to commit immediately to the next Gaole, those which he findeth continuing the force, untill they pay their fine, *ibid.* & 115. or forfeit an 100. pounds. *ibid.*

But such force must be in the presence or view of the Justice.

6. The Justices, or some of them that see the force, are the proper Judges of that offence, and may assess the fine, but it must be upon every one severally. *Dal. 115.* & is to be estreated into the Exchequer; upon which assessing and estreating the party is to be delivered. *Dalton 58. Lam. 159.*

And so upon payment of the fine to the Justice, or recognizance for payment. *Dal. 58. vide Lam. 159.*

Quære, for the Sheriffe is accountable for all

all fines : and *Lamb.* adviseth to referre it over to the Kings Bench. *Lam.* 159.

Or the Justice may record the force, commit the offenders, and certifie the record to the Just. of Assize, or to the Sessions, and there the offenders fined. *Dal.* 58.

But ought more properly to be assessed by them that record the force, *Dal.* 91. and to be of value.

Or the Justice may certifie the record into the Kings Bench, referre the fine thither, *Dalton* 58. which *Lambert* thinketh the best course. *Lim.* 159.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti.* *Lam.* 577.

7. The force ought to be enquired of in some good place or towne, neere where the force was, *Dal.* 58. and that within a moneth, if it be a riot. *Dal.* 115. One Justice may enquire. *Dal.* 58.

Enquirie may be though the offenders be not present, or though the Justice goe not to see the place where the force is. *Dal.* 58. *Lambert* 152.

Without enquirie there can be no restitution. *Dal.* 59. *Cro.* 161. b. 164. a.

Upon enquirie making, the Justice must direct his precept to the Sheriffe to summon 24. of 40. shill. a yeere land *per annum.* *Dal.* 213. *vid.* the forme. *Cro.* 132. b. *Dal.* 400.

“If the Sheriffe doe not duely execute the Justices precept for the returning of a Jury, he forfeiteth x. li. 8. *H. 6. ca. 9.* *Dal.* 58.

Upon default the Justice may award an *alias* and *pluries infinite* till they come.

The

The Sheriffe, at the day of the second precept, must return 40. shill. in issues upon every one, at the third Writ five pound, and at every day after the double. 8. H. 6. c. 9.

If any Jurour have not 40. shillings land, yet the enditement is good for the King. *Quære* if there shall be restitution. *Lamb.* 152. *Dalton* 213.

Returning of smaller issues then the statute, hindreth not the enquirie. *Dal. ibid. Lam. ibid.*

8. Upon enquirie the Justice may make restitution, wherein the Justice needeth not to examine the title. *Dal.* 214. *Lam.* 156.

No restitution before inquisition. *ibid. Crom.* 161. b. 164. a. *Dal.* 214.

In the enditement not only the entry, but also the putting out must be, and *ex adhuc extra tenent*, *Lam.* 153. for lack of these words no restitution can be made. *Dal.* 214. *Crom.* 263. b. *Lam.* 153.

The enditement must be good, both in matter and forme. *Dal.* 215. the words *manu forti*, or *cum multitudine*, are necessary. *ibid.*

The enditement must expresse the quality of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and so in certain. *Dal.* 214.

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other. *Dal.* 215. *Cro.* 162. a.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon praier of the party, may grant a *superedeas* to stay restitution, if restitution be not made. *Dal.* 215. *Cro.* 165. a.

But

But no Justice not present can grant a *subpoena*. *ibid.*

The Justice may make restitution, or give warrant to the Sheriffe, or certifie into the Kings Bench, and leave the award of restitution to that Court. *Dal.* 216. *Lam.* 156.

None can grant restitution, but they before whom the force was found, *Dal.* 216. except the Kings Bench.

None can personally restore the party, but he that took the enquiry, *Dal.* 216. And that by precept to the Sheriffe. *Lam.* 158.

After enquiry the Justice of P. may breake into the house by force, and put the ejected into possession. *Dal.* 59.

If restitution be made without enquiry, it is punishable in the Starre-chamber. *Dal.* 45.

Restitution must onely be made to him that was put out, *Dal.* 159. 213. *Lam.* 153.

Restitution is to be made only of house and land, *Dal.* 214. but not of rent, common, or advowson. *Dal.* 59.

Restitution may be made notwithstanding a traverse, *Dal.* 60. but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Starre-chamber. *Dal.* 60.

The offenders being gone, the Justice may send his Warrant, and commit them till they find surety of their good behaviour. *Dal.* 60.

If force be made by three, it is a riot. *Dal.* 61.

*The proceedings upon a Writ upon
the Statute of Northampton,
2.Ed.3.3.*

1. The Justice of Peace to whom this Writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the Writ he may cause 3. O-yes, and then make proclamation for silence, *prom Dal- ton 61. Cro. 72. a. b. Lam. 168.*

2. Then may he reade, or cause the Writ to be read, or declare the effect thereof.

3. Then let three O-yes be made, and make proclamation againe for silence, *prom Dal. 61. Cro. 72. a. Lam. 169.*

4. Either enter and search for armour, or enquire by Jury. *Dal. 62. Lam. ibid.*

All that remaine after proclamation, are to be imprisoned, and the armour apprized. *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

*The execution of the Statute of
Northampton without Writ.*

Every Justice of Peace may execute it *ex officio* without Writ. *Dal. 62. Cro. 72. a.*

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprize the armour, record all what he shall do, & thereout send an estreat into the Exchequer. *Dal. 62. Cro. ibid. Lam. 171.*

The Justice cannot make restitution to the party outed, but onely remove the force. *ibid.* Lam. 172.

Of causes to stay granting of restitution, vide Dal. 218.

Forfeitures of a recognizance taken for the Peace.

Whatsoever is a breach of the peace, the same is a forfeiture of the recognizance. *Dalton* 181. as,

1. To threaten a man to his face to beat or kill him, *Cro.* 136. b. *Lam.* 115. but not if he be absent. *Dal.* 152.

2. To strike at, or offer to strike at a man, though he hit him not.

3. All affraies, malicious and violent striking, or other mis-intreatings of the person of another. *Dal.* 181. *Lam.* 127.

4. To goe with company or weapons unusuall. *Dal. ibid.* *Cro.* 137. a. *Lam.* 126.

5. To command or procure another to break the peace, and if it be done in deed, *Lam.* 115. *Dal.* 182. *Cro.* 137. a.

6. Imprisoning or arresting another without warrant. *Lam.* 127. *Dal.* 182.

To thrust one into the water, whereby he is in danger of drowning. *ibid.*

To ravish a woman against her will: *ibid.*

To commit burglary, robbery, murder, manslaughter, or doe any treason against the person of the King. *Lam.* 127. *Dal.* 182.

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance

recognizance of the peace, must be done unto the person of another. *Dal.* 182.

Vide plus recognizance, *vide plus* breach of the Peace, and Fines.

One committed for petty larceny, and convicted thereof, shall forfeit his goods. *Lam.* 273. *Dal.* 234. *Cro.* 36.b. *nu.* 20.

Forfeitures upon statutes, *vide* Severall statutes.

Forgerie.

Second forgery of deeds concerning anothers land after a former conviction is felony. 5. *E. 1.* 14. but not enquirable by the Justices of Peace. *Dal.* 288. *Cro.* 56.b. *Lam.* 549.

Forraine plea.

One indicted of petty treason, murder, or other felony, pleadeth a forraine Plea tryable by Jury, it shall be tried before the Justices before whom he was indicted, and by the Jurours of the same County. 22. *H. 8. c.* 14. 32. *H. 8. cap.* 3. *Lam.* 552.

Forrester.

Forrester, Warrener, or Parker, after Huy and Cry to yeeld, killeth any man in his office making resistance, it is justifiable. 21. *E. 1. de malfactoribus in Parcis.* *Lam.* 235. *Dal.* 255.

Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth for any victuals or wares before they come to the

the Market, Faire, or Port, or moveth the party to enhance the price, or nor to bring them to the Market, Faire, or Port. *Lam. 450.*

Forestaller convicted before the Justices of Peace at the Quarter Sessions by examination of two witnesses, or presentment for forestalling, for the offence shall for the first time

Lose the goods, and be imprisoned two moneths without baile or mainprife.

2. For the second lose double the goods, and be imprisoned for six moneths.

3. For the third lose all his goods, stand in the pillory, and bee imprisoned during the Kings pleasure. *5. Ed. 6. c. 14 Lam. 570.*

The moitie of the forfeiture upon the statute of forestallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Justices of Peace. *Lam. 584.*

Fowlers and Fowling.

Shooter, taker, or destroier by guns, bowes, setting dogges, nets, or other engines, of any Pheasant, Partridge, Pigeon, Heron, Mallard, Ducke, Teale, Wigeon, Growse Heathcocke, Mooregame, or such fowles, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths without baile, unlesse he pay to the Churchwardens of one of the places, to the use of the poore, 20. shillings for every Pheasant, and also for every egge of Pheasant, Partridge, or Swan taken or destroied, or after one moneth of his commitment become bound with two sureties

in

in recognizance of twenty pound never to doe the like, the same recognizance to be returned to the Quarter Sessions. 1. *Jac.c.27.Lam.334.*
Dal.89. 7.Jac.c.11.

Vide Partridges and Pheasants.
 Games, *vide* Unlawfull games.

Gaole. Gaoler.

GAoler or Sheriffe may make a gaole of his owne house; so cannot a Constable nor Justice of Peace. *Lam. 133. Dal.347,348.*

Gaoler suffers a felon to goe at large, and he escapes; it is felony in the Gaoler, not in the prisoner. *Lamb.229. Dal.274. P.R.147,149.*
Dal.278.

Gaoler by hard and cruell custody compells his prisoner to become an approver; it is felonie. 14.*E.3.cap.10.Lam.231.420. Crom 49.a.*
Dal.288.as,

Gaoler killeth an unruly prisoner which doth assault him; it is no felony. *Lam.235.*

Gaoler by hard usage killeth his prisoner; it is murder. *Lam.240.*

Gaoler that taketh above 4.pence upon commitment of any prisoner arrested or attached, forfeiteth to the party grieved treble damages, and 40.pounds, the one moitie to the King, the other to the party that will sue for it. 23.*H.6.c.10. Lam.431.*

Gaoler or Sheriffe refusing to take a felon delivered by Constables or Township, or taking any thing for receiving, is to be fined. 4.*E.3.c.10.Lam.434.*

Six

Six Justices may in sundry shires take order for the common gaole, whereof the Sheriffes shall have the custody, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute. 23.H.8. c.2. 13.El.25. Lam.336.EXP.

Accountant for money levied for the gaole to build it, goeth into another County; the Justices of Peace where the gaole is, may send an attachment for him unto another shire. 23.H.8.c.2. 25.Hen.8.c.5. 5.El.c.24. Eim.525.EXP.

Gaoler suffereth a prisoner to go abroad out of his sight, and he returneth not again; it is an escape. Cro.39.b.nu.5.

Gaoler refuseth to receive one arrested for felony, the Towne must keep him till the Gaol delivery, Dal.348,349.Cro.172.a.but the Gaoler denying to receive such, shall bee punished by the Justices of Gaole delivery. ibid.

Gaoler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on paine of 10.pound to the King, and 100.shillings to the party. 34.E.3.c.9. Cro,185.a.b.

Glassmen.

Glassmen of honest life may travell without begging within the County, by licence of three Justices under their hands and seales, one being of the Quorum, 39. El.c.4. but by 1.Jac.c.7. they are made rogues, and so to be punished.

G

Goldsmith

Goldsmith, or worker of gold must worke as fine silver or gold in allay as the sterling, and set his marke on it, or forfeit the double value. 2. *Hen. 6. c. 14. Lam. 467.*

None to gild any thing, or any metall but silver, except spures of Knights, and apparell of Barons, or above, on paine of 10. times the value, and a yeeres imprisonment. 8. *H. 5. c. 3. Lam. 467.*

Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to command it but upon speciall cause seen to themselves, or upon suit of others, and those very honest, and seldome for one cause alone, and not by one Justice onely. *Lam. 120. Dal. 191.*

Good behaviour may be granted by speciall Writ out of the Chancery, *Custodibus pacis & vicecomiti & eorum cuilibet*, upon the statute of 34. *Ed. 3. 1. Lam. 117. Dal. 192.*

For what causes it is grantable Dalt. 192.

1. Against common barretours, quarrellers, and disturbers of the Peace.

2. Rioters.

3. Liers in waite to rob.

4. Generally feared or suspected to be robbers by the High-way.

5. Such as are likely to commit murder, homicide, or other greivances to the Kings subjects in their bodies.

6. Such

6. Such as shall practise to poyson another.

7. Against all such as be of evill name or fame generally, but especially against such as are detamed in these particulars :

1. Those that haunt bawdy-houses.

2. Suspected to keepe houses of common bawdery.

3. Common whoremongers and common whores.

4. Night-walkers that be suspected to be pilferers.

5. Eveldroppers that cast mens carts and gates into ponds, & such like misdemeaners in the night ; such as live idley, yea fare well, and go well clad, having little to live on, except upon examination they give good account of such their living.

6. Common haunters of Alehouses or Tavernes, having small meanes to live on.

7. Drunkards twice convicted.

8. Messengers of theeves.

9 Such as make false hue and crie.

10. Cheaters and couzeners.

11. Libellers.

12. The putative father of a bastard.

13. Unlawfull hunters in Parkes, after examination taken.

14. Abusing of officers in executing their office, as Justice of Peace, Constable, or other officer of the Peace; as a Justice seeth a man break the Peace, and doth charge him to keep the Peace; who answereth, he will not.

Words of contempt against a Justice of Peace, though he be not executing his office.

15. Abusing a Justice of Peace his warrant.

16. He that complaineth of riot or force, and the Justices being assembled for inquirie will not prosecute.

17. He that chargeth one with felony before a Justice and will not prosecute.

18. Abusing of a *Supersedens* of the Peace to a wrong end.

By divers Statutes.

1. Disturbers of Preachers. 1. *M.c.3.*

2. Destroyers of fish ponds, or stealers of fish, after lawfull conviction. 5. *El.c.21.*

3. Takers of hawkes or hawks eggcs out of other mens grounds after lawfull conviction. 5. *El.c.21.*

4. Stealers, hunters, or killers of deere, or Conie in Park or warren after lawfull conviction. 3. *Jac.c.13.*

All these must be bound at the Sessions.

5. Popish recusant must be bound in the Kings Bench. 23. *El.c.1.*

6. One pardoned for felony, is to be bound before the Sheriffe and Coroners. 10. *El.3.3.*

7. Disturbers of the execution of the statute for rogues. 39. *El.c.4.*

8. Disturbers of the execution of the statute for the poore. 39. *El.c.4.*

9. Shee that hath had twice a bastard. 7. *Jac. cap.4.*

10. Infected with the plague, or having their houses infected and are unruly. 1. *Jac. cap.31.*

Greyhounds, *Kide* Hunting.

Guns

Guns and Gunners.

Gunner that departed from his Captaine without licence, or wandring with a forged licence, it is felony. *Lam. 417.*

Every person may attach an offender against the statute 33. *H. 8. c. 6.* and carry him to a Justice of Peace. *Dal. 65.*

And the Justice upon examination may send him to the gaole till the penaltie be paid.

The particulars of the Statute
33. *Hen. 8.*

None under 100. pound *per annum* may shoot in, or keep a gun, dag, pistoll, crosse-bow or stone-bow.

None may have or use any gunne under three quarters of a yard in length.

One of a 100. pound *per annum* may take such gun from the offender, or any crosse-bow or stone-bow, and may keep the bow, but must break the gun.

None may travell with a gun charged, or bow bent, but in time of service, and to the musters, except he have a 100. pound *per annum*. *Dal. 65.*

None may shoot in a gun neere a Market Towne, but in defence of his house or person, or at a Butt.

The master may not command his servant to shoot, except at a Butt, or in war.

1. Except Serving-men (whose masters are enabled) at a Butt.

2. Inhabitant of Market Towne.

3. Persons dwelling alone, or neere the Sea; within five miles.

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in guns (other then such as have 100. pound *per annum*) ought to present their names to the next Justice of Peace, and the Clerk of the Peace should record it. *Dal. 66.* maketh *quere* if it be in use.

“The Sheriffe, or any of his Officers may
“carry guns, dags, or other weapons, offensive
“or defensive, for the execution of their office,
“notwithstanding the Statute of 33. *Hen.*
“*Cok. 5 72. Dal. 66.*

“Any two Justices may commit, for three
“moneths, such as shoot with gun or bow at
“any partridge, pheasant, house-dove, mallard,
“or any fowle, or at any hare, unlesse he
“pay 20. shillings. 1. *Fac. c. 27. Dal. 66.*

Vide Hunting Partridges.

Hares.

“If any have traced, killed, or destroyed any
“Hare in the snow, he loseth 6. shill. 8. pen.
“for each Hare. 14. *H. 8. c. 10. Lam. 447.*

Buying and selling of Hares, *vide* Partridges.
See the Stat. 1. *Fac. c. 27.* in Fowlers.

Harnesse and Habiliments of war.

To imbezill habiliments of war, or victuals provided for souldiers, mariners, or gunners, is felony. 3. *El. c. 4.*

Hart proclaimed, *vide* Deere.

Harvest

Artificers and other persons meet to labour, are compellable by one Just. of Peace or Constable, and the refuser to labour in hay time or harvest, is to be put in the Stocks two daies and one night. *Lamb. 475.* the Constable or other head officer to doe it upon paine of 40. shill. *5. E. 6. 4. 5.*

Hawks and Hawking.

Unlawfull taker of Hawkes egges is to have three moneths imprisonment, there to remain till he find sureties for the good behaviour for seven yeeres. *5. El. c. 21. Lamb. 446. vide 3. Jac. cap. 13.*

Taking of Hawkes egges upon ones owne grounds or anothers, or any Eirer, or driving them out of their covert, or bearing any Hawk of the breed of England, called a Nyeffe, Goshawk, Tassel, Lanner, Lanneret, to be imprisoned a yeare and a day, and lose 10. pounds and the Hawk. *11. H. 7. c. 17. Lam. 446.*

Every Justice of Peace may examine the offences for hawking or hunting with Spaniels in eared or coddled corne, and bind over the offender with sureties to the next Sessions. *23. El. c. 10. Dal. 66. Lam. 447.*

Against hawking at pheasant or partridge, between the first of July and last of August, *vide 7. Jac. c. 11.* and Partridges.

Vide plus Larceny and Felony.

Hay and Oats.

Inholder taking any thing for litter, baking horse-

horse-bread, except in Towne or Village, being a thorough-fare, and being no City, Town corporate, or Market Towne, the same to be of assize and weight, after the price of corne and graine in the Market, or sell horse-bread, hay, oats, beans, pease, provender, and all kind of victuals, both for man and beast, for reasonable gaine; for the offence,

1. Fined.
 2. Imprisoned for a moneth without baile.
 3. Stand on the Pillory without redemption of mony.
 4. Fore-judged for keeping Inne againe.
21. *fac. x. 11.*

Hedge-breakers.

Breakers and cutters of hedges, pales, railles, or fences, cutters and carriers away of corne growing, robbers of orchards or gardens, pullers up of fruit trees, with intent to carry away, cutters or spoilers of woods, poles, or standing trees, convicted before a Justice of that County where the offence shall be done, by confession, or one witnesse upon oath, are to render such damage as the Justice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without baile, till he cause it to be done. 43. *El. c. 7. Lam. 302. Dal. 143.*

No Justice to proceed against such trespassses for offences done to himselfe, without assistance of another Justice. *ibid.*

The second offence is whipping. 43. *Elif. cap. 7.*

High-waies.

One Justice may cause high-waies to Markets to be enlarged, and cleansed of bushes and trees. 13.E.1.c.5.Dal.67.

Every Justice may present upon his owne knowledge in open generall Sessions, any high-waies insufficiently repaired, or any default against the Statute, 2.& 3.Ph.& Mar.c.8. & 5.El.c.13. and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may asseſſe the same, though the presented be absent, saving to the offender his traverse. Dal.67.Cro.125.b.195.a.nu.5.

*The defaults contrary to these
Statutes.*

1. If the Constable and Church-wardens do not on Tuesday or Wednesday in Easter week call together a number of Parishioners, and chuse surveyours for high-waies.

2. If six daies be not by them then appointed for mending high-waies before Midsummer.

3. If notice be not given by them openly in the Church the Sunday after Easter of the said six daies.

4. If he that hath a plow-land in tillage, or pasture, or draught, doe not for every draught or plow-land send one cart with two able men to work eight houres of every of the said six daies, 20.shill.

And every other Parishioner having 5.li. in goods, 40.shil in lands in the subsidy, must send every day two able men, or lose 10.shill. and every cottage one, or lose 12.pence a day.

But 18. *El.* 9. he that occupieth a plow-land in severall Parishes, only where he dwelleth; and he which hath plow-land in severall Parishes, shall be charged in each Towne. *Dal.* 68. *Cro.* 82. b.

5. If the carriages be not thought needfull by the surveyours, then two able men for every cart spared, upon paine to forfeit for every one not sent, 12. pence. 2. & 3. *Phil. & Mar.* cap. 8. *Cro.* 82. b.

6. If fences, hedges, and ditches next adjoining to the high-waies be not kept low, scoured, and repaired.

7. If all trees and bushes growing in the high-waies be not cut downe by the owner of the land, upon paine of 10. shill. for every default. 5 *El.* c. 13. 18 *El.* c. 9.

8. If any chosen to be surveyours refuse the office, or do not execute it, penalty 20. shill. 2. & 3. *P. & M.* c. 8.

9. If the surveyour doe not within one moneth next after the offence committed, present it to the next Justice, he forfeiteth 40. shill. 5 *El.* c. 13. 29 *El.* c. 5.

10. If the Bailiffe or Constable who receiveth the estreats, do not levie the same, or make not a true account and payment of all summes levied to the Constable and Churchwardens, or the Constables and Churchwardens have not employed them upon the high-waies.

If the surveyours do certifie the next Justice within a moneth, the Justice ought to certifie the presentment at the next Sessions, penalty five pounds.

If

If the surveyours present not till after the moneth, and the Justices do certifie it at the next Sessions, it is not good against the offenders. *Dal. 70.*

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compell them to pay all such arrerages as they shall adjudge to the Constables and Churchwardens, or imprison them till payment of such arrerages be made, and call the Surveyours, and Constables, and Churchwardens to an account.

All fines at the Sessions for high-waies, shall be levied by estreats indented, sealed, and signed by the Clerk of the Peace, and delivered by him within six weeks after Michaelmasse. *Dal. 71.* as by Statute is appointed. *vide Statute.*

The Bishop, Chancellor and three Justices of Peace, may examine the bestowing of any mony appointed by any statute for the amending high-waies or bridges, and call to account the detainer thereof. *14. Elis. c. 5. 39. Elis. c. 18. Lam. 366.*

Upon enditement for repaire of bridges in high-waies, there shall be like processe as the Kings Bench useth, or such as the Justices of Peace think meet. *22. H. 8. c. 5. Lam. 523.*

High-waies leading from one Market Towne to another, shall neither have dike, underwood, or bush, whereby a man may lurk to doe hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery be done therein, he must be answerable for

for it; and the Lord of a Park must set it two hundred foot from each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot passe. *Dal.* 133.

Homicide.

Homicide is the killing of a man by a man. *Dal.* 234.

It is no difference whether the slaine be alien, denison, or English man, if hee lives under the Kings protection, *Lamb.* 237. *Crom.* 21. a. nu. 1. *Da.* 239.

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Premunire, is felony. *Dal.* 239. *Cro.* 24. a. nu. 39. *Stamford* 13 *quere.*

Homicide is either killing himselfe, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chattels reall and personall, and his debts due by specialty. *Dalt.* 240. but no lands, nor blood corrupted. *ibid.*

His goods are not forfeited till his death. *ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himselfe out of his lunacy, doth forfeit his goods *Dal.* 240.

Homicide of another is { Voluntary,
Involuntary.

Voluntary is { Murder. *vide* Murder.
Manslaughter.

Manslaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other. *Cro.* 26. a. *Lam.* 248. *Dal.* 247.

Manslaughter

Manſlaugh- } By chancemedley.
ter is } *Se defen-* } perſon.
 } *dendo* } houſe and goods.

Manſlaughter by chancemedley is felony,
but may have his clergy *Dal.247.*

One fighting breaks his weapon, a ſtander
by lends him another, whereby the other is
killed, it is manſlaughter in the lender. *Dals.*
ibid. Cro.26.b.nu.12.Lam.252.

Two fighting on the ſudden, part, and meet
again, one killeth the other; it is a continued
fray. *Dal. ibid. Lamb.250. Crom.23.b. nu.31. &*
24.2. nu.36. & 26.2. nu.9.

The ſervant fighting in his maſters defence,
though there were malice in the maſter not
told to the ſervant, *Lam.248.* ſo a ſtranger ſud-
denly taking part. *Id.248.* it is chancemedley.

Two that were in malice are reconciled, fall
out upon new occaſion, and one is killed; it is
manſlaughter only. *Lam.250. Dal.248.*

Se defendendo, when one killeth another in
the neceſſary defence of himſelfe or his, there-
by to ſave himſelfe or his poſſeſſions or goods,
or ſome other perſons which he is bound to
defend from perill, and it is either againſt a
felon, as murderer or theefe, or a loyall ſubject.
Lam.252. Dal.253.

Againſt a loyall ſubject, if he be aſſayled by
another man, he muſt flie ſo much as he may
till he be letted by ſome wall, ditch, hedge,
preaſe of people, or other impediment, that his
neceſſitie of defence may ſeeme inevitable, and
he ſhall be committed till the time of his tri-
all, loſe his goods, and ſeek his pardon.
Lam.253. Dal.254. It is not materiall though
he

he strike againe, if before he give any deadly wound he flie to the strait.

“A man flyeth to a wall, and holding out
 “his weapon, the other runneth upon it and
 “is slaine, it is *se defendendo* and forfeiteth
 “his goods. *Dal. 274. Cro. 28. a. nu. 7.* But if he
 “had fallen on the ground and drawn his
 “knife, and the other fall on it, and killeth
 “himselfe, he forfeiteth no goods, for he could
 “not flie, and the slaine is in a sort *felo de se.*
 “*Ibid. P. R. 122. b. Stam. 16. a.*

Neither is it materiall though there were former malice, unlesse he lye in wait for the other, or agree for the place of fight, or strike the first stroke. *Lam. 253. Dal. 254.*

Or assaulted in his owne house upon a sudden quarrell, and thereby killeth him. *Lam. 254.* but he forfeiteth his goods and must have his pardon, except the assaylant came with a felonious intent to kill or rob him. *Dal. 254. Cro. 28. a. nu. 6. Lam. 254.*

A man falleth to the ground, there his flying to a strait is not necessary. *Dal. 255.*

An officer or minister of justice, in executing his office being assaulted, is not bound to flie, *Dal. 255. Coke 9. 98.*

A servant killing him who robbed or killed his master, so it be done presently or in defence of his masters person or goods, if it cannot otherwise be avoided. *Dal. ibid. Cro. 28. nu. 4.*

Forrester, Parker, or Warrener, or any in their company, killing an offender in a Forrest, Parke, or Warren, after hue and crie to keepe the Peace, if they yeeld not themselves but flie, or defend themselves by violence, is
 no

no felony. *Dal.* 255. *Quere* if there be no malice in the keeper. *Cro.* 30. b.

In defence of my house and goods, it is justifiable by me, my servants or company, to kill one who attempteth feloniously to murder or rob me in my dwelling house, or in or neare a high-way, horse-way, or foot-way, or burglarily to break my house in the night. *Dalt. 254. Crom. 27. b. nu. 1. Vide, Lamb. 240. of one entring by force in the day, and killing in the dark.*

To shoot at him that commeth to burn my
house, is justifiable in me or my servants. *Dal.*
ibid. Cro. ibid.

In defence of the possession of my goods, I may justifie to beat him that wrongfully taketh them, but not kill him, except he be a thiefe. *Dal. 255. Vide Assault.*

• To kill a true man, in defence of house, land, or goods, is manslaughter. *Dalibid.* *Cro. 27 b. nu. 4.*

Involuntary homicide is by $\left\{ \begin{array}{l} \text{Misadventure,} \\ \text{Necessity.} \end{array} \right.$

By misadventure is, when a man doing a lawfull act, without any evill intent, killeth a man: this is not felonie of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods. *Dalt. 249. Lamb.*
254.

A schoolmaster, father, mother, or master, correcting moderately his scholar, child, or servant; Shooting at pricks, butts, or lawfull mark; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawfull thing, and giving warning.

Running

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawfull act, without evill intent, is felony, as shooting arrows, casting stones into high-ways or other place whither men usually resort. *Dal.* 250.

Fighting at Barriers, or running at Tilt without the Kings command.

Quere if playing at hand-sword, bucklers, foot-ball, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quere* *similiter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh. *Dal.* 251. if it be through the wilfull default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King. *Crom.* 31. a. *Dal.* 251.

The forfeiture hath relation from the stroke given.

Deodands are not forfeited till the matter is found on record. *Dal.* 251.

The Jury which findeth the death of a man, must find and apprise the *Deodand*. It behoveth the towne to see it forth-comming; for the Sheriffe shall be charged with the price, and shall levie the same on the town. *Dal.* *ibid.* *Stam.* 21.

If the slain be under 14. years of age, nothing is forfeited as a *Deodand*. *Dal.* *ibid.* *Stam.* 21. &c.

Homicide

Homicide by necessity is { Commanded,
{ Tolerated.

Commanded.

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but justice. *Lam. 234. Dal. 252.*

If the officer doth not observe order of law, it is felonie in the officer. *Dal. ibid. Lam. 240. Stam. 13.*

"If a stranger, not lawfully deputed, put to death one condemned to die, it is felony. *Dal. ibid. Lam. ibid.*

"It is not lawfull for the Judge, who condemned him to be put to death. *ibid.*

Tolerated.

One warranted to arrest one endited of felony, upon resistance killeth him. *Dal. ibid. Lam. 234.*

Every private person upon hue and cry to take a felon, if he resist and will not yeeld, may kill him. *Ibid.*

Conductors of a felon to the Gaole, upon resistance or flight may kill him. *Dalt. 253. Lam. 234.*

A prisoner in the Gaol attempteth to escape, and striketh the Gaoler, he killeth the prisoner; it is not felony. *ibid.*

Rioters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings officers, and will not yeeld themselves, being slaine, it is no felony. *Cro. 23. b. nu. 28.*

30.b. 158.b. *Lamb. 235. Dalt. 253.*

If an officer, by vertue of the Kings proceffe, arresting one for debt or trespassse, is resisted, and killeth the resister, it hath been taken to be no felony. *Dal. 253. Cro. 24.a. 30.b. Quere Cook. lib. 4. fol. 40, 41.*

To kil a true man in defence of house, lands, or goods, is homicide by necessity. *Dal. 254.*

In all these former cases there must be inevitable necessitie, that the offender could not be taken without killing. Dal. 253.

Horses and Mares.

Any Justice may hear and take the claim of the owner of any horse, &c. which was stollen within sixe moneths after the sale thereof, the prooffe to be made by two witnesses upon oath within forty dayes next ensuing the said claim. *Dal. 73. Lam. 203. 31. Eliz. c. 12.*

The Justice of Peace may minister an oath to the buyer what money he paid, *bon. fide*, so as the right owner repaying his money may have his horse again. *Dal. ibid.*

Owner, officer, or ruler of any fair, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose for tie shillings for every fault and answer the partie grieved. 2. 3. P. & M. c. 4. *Lam. 471.*

The sale of every horse not being according to the stat in every point, is void *Dal. 73. Lã. 472.*

1. The horse must be one houre at the least in the place of the open faire.

2. All the parties to the bargain being in the faire, must come with the horse to the booke-keeper.

3. The

Horses and Mares. 139

3. The booke-keeper must take perfect knowledge of the seller and of the voucher, of the Christian name, surname, mystery and place of dwelling.

4. The voucher must know the seller indeed, and declare to the booke-keeper the Christian name, surname, mystery and dwelling, as well of himsele, as of the seller.

5. The booke-keeper must make a true and perfect entrie of the sellers name and place of dwelling, &c. and of the true price, forfeiture, 31. *El. cap. 12.*

Every contract for a stollen horse out of the faire is void, though it be after booked *Dal 74.*

A sale in open market shall not take away the owners property, the buyer knowing that it was anothers. *Dal. ibid.*

All horses, and all other goods, are to be sold in such a place or shop as is commonly used for the selling of goods of the same kind, to alter the propertie. *Dal. ibid.*

A theefe selleth a stollen horse by a false name, and is so entred in the toll book; such mis-naming maketh the sale void against the owner *Dal. 74.*

Horse bread.

Inholder in a corporate or market Towne, where there is a common baker that hath beene an apprentice therein seven yeeres, may not make horse-bread within his house. 32. *H. 8.*

41. 21. *Fac. c. 21.*

Inholder or ostler in a thorow fare-towne, being no city, towne corporate, or market towne, being a baker, and one that hath bin
an

an apprentice therein seven yeeres, may make horse-bread within his house. 21. *Jac. cap. 21.*

The horse-bread must be sufficient, lawfull and of due assize, according to the price of corne. 21. *Jac. 21.*

- | | | |
|----------|---|---|
| Penaltie | { | 1. Fine. |
| | | 2. Imprisonment for a moneth without baile. |
| | | 3. Stand in the pillory without redemption of money. |
| | | 4. Forejudged for keeping Inne againe. 21. <i>Jac. c. 21.</i> |

Vide Inne-holder.

Hospitall.

The Bishop and his Chancellour, with two Justices of Peace next inhabiting, may charge the collectors of a revenue of an Hospital, upon a paine, presently to account and to imploy the surplussage to the use of the Hospitall. *Lam. 356. 14. Eliz. c. 5. 39. El. c. 18.*

Hospitalitie *vide* Religious house.

House.

1. A mans house is his castle for defence. *Dal. 209.*

2. It protecteth against any arrest at the suit of any subject. *ibid.*

3. In some cases it is a privilege against the Kings Prerogative; for it hath beene adjudged, that Salt-peter men may not digge in a Mansion-house without the owners consent. *ibid.* *Cok. li. 11. fol. 82.*

Theeves

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing. *6 d.*

He may beat him that will enter upon his possession, but may not kill him. *Quere* if he may hire strangers to aid him, or put his ordinary company in armour. *Dal. 209.*

Vide plus Homicide.

House of Correction.

House of Correction with implements and backslides fitting for setting on work idle persons, to be erected and provided in a convenient place in every Countie before Michael. 1611 the same to be conveyed over to such as by the greatest part of the Justices at the quarter Sessions shall be chosen to be employed for setting on work idle and disorderly persons, on pain of five pound for every Justice of Peace, the one moytie to the informer, the other towards the erecting of the house. *7. Jac. cap. 4.*

Master of the said house to be appointed by most of the Justices at the Q. Sessions, next after providing of the said house, who is to set on worke, and moderately to correct by whipping or fettering such persons as shall be sent to him. *7. Jac. c. 4.*

Master of the house of correction giving sufficient securitie for performance and continuance of his service, is to have yearly such moneys as by most of the Justices at Q. Sessions shall be thought meet, to be paid quarterly by the

142 House of Correction.

the Treasurer, or else the master to levie it in such sort as the Treasurer may. 7. *Fac. c. 4.*

Constables shall appeare before the Justices of Peace twice in the yeare, and give account upon oath in writing, under the hand of the minister, what rogues have been apprehended, and how many punished. 7. *Fac. c. 4.*

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting for the execution of the statute. 7. *Fac. c. 4.* shall be sent thither, to pay such fine under forty shillings, as by most of the Justices shall be assessed. 7. *Fac. c. 4.*

A woman, having a bastard which may be chargeable to the parish, for the first offence to be sent to the house of correction one yeare, for the second offence to be sent to the house of correction, and to remain there (as aforesaid) till shee find sureties for the good behaviour, and not to offend so again. 7. *Fac. c. 4.*

Any able to work, and threatening to run away, and leave their families upon the parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the parish, or to be sent to the house of correction. 7. *Fac. c. 4.*

Master of the house of correction quarterly at the Sessions must yeeld account of such as have been committed, or is to be fined by most of the Justices. 7. *Fac. c. 4.*

If any committed become troublesome to the countrey by going abroad, or escape without lawfull delivery, the master is to be fined by most of the Justices at the Q. Sessions. 7. *Fac. c. 4.*

All

All penalties not limited by the statute.
4. *Jac.* 4. shall be paid to the Treasurer, and
accounted by him. 7. *Jac.* c. 4.

Vide plus Poore people.

Hunting.

One Justice of Peace, upon information of
any unlawfull hunting of Deere or Conyes by
night, or with painted faces, or other disgui-
sing in forrest, park, or warren, may make
warrant to the Sheriffe, Constable, Bayliffe, or
other officer, to take the partie suspected, and
to bring him before him, or some other Justice,
to examine him thereof; and if he conceale the
hunting, or any offender with him therein, the
concealment is felony in the concealer, but
the truth confessed is but fineable at the next
Q. Sessions. 1. *H.* 7. c. 7. *Lam.* 191. *Dal.* 180.

To disobey such a warrant, or make rescous
thereupon, so that execution of that warrant
be not had, is felony. 1. *H.* 7. c. 7. *Dal.* 75.

The Justice of Peace that taketh examina-
tion of the offender for unlawfull hunting in
parkes, &c. may after the examination binde
the offender to his good behaviour, to the end
he be forth-comming till the offence and the
offender, bee lawfully examined. *Dal.* 75. 76.

Unlawfull hunting by three or more will
prove a riot. *Dal.* 76.

Any by night or day wrongfully entring in-
to any inclosed ground, kept for keeping of
Deere or Conies, and there chasing or killing
of them, upon conviction to be imprisoned
three moneths without baile, and there to
continue

continue till he pay treble damages and costs to be assessed by the Justices before whom he is convicted, or pay to the party grieved ten pound for Deere at the election of the partie grieved, 7. *Jac. c. 13.* and find sureties for his good behaviour for seven yeers. 3. *Jac. ca. 13.* 7. *Jac. c. 13. l. am. 449.*

The partie grieved or the Justice of Peace, upon satisfaction of the partie grieved, and confession of his offence, and that he is sorry for the same, in open Sessions may release the offender of his bond for the good behaviour. 3. *Jac. c. 13.*

The statute, 3. *Jac. c. 13.* doth not punish offenders in parks or inclosed grounds made after the statute, without the Kings license. 3. *Jac. c. 13.*

Enquiring, hearing, and determining of offences against the statute 3. *Jac. cap. 13.* may be made by the Justices of Peace and Gaole-delivery at the Sessions, and they may award proccesse upon enditements, informations, bills of complaint, or other actions wherein no es-
soine, &c. 3. *Jac. c. 13.*

Any not having lands of inheritance in his owne or wives right, of the cleare yearly value of 10. li. or for terme of life of 30. li. *per annum*, or goods to his owne use worth 200. li. keeping Greyhound to course Deere or Hare, except the son of a Knight or Baron of Parliament, or son and heire of an Esquire, upon conviction by confession or oath of two witnesses before two Iustices of Peace, where the offence is committed, the party apprehended to be imprisoned three moneths without baile,
except

Hunting.

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except he presently pay to the Churchwardens where the offence was committed, or party apprehended, 40. shill. to the use of the poore of the said Parish. 1. *Fac. c. 27.*

Any having lands in fee simple or fee taile of 100. li. *per annum*, finding any not having lands of 40. li. *per annum*, nor worth 200. li. in goods, to use any gun, bow, dogs, or engines for killing of deer or hare, except parker or warrener, or owners of either of them, or other grounds inclosed for deer or conies, that shall be yearly worth 40 shil. may take any their guns, bowes, engines and dogs, and keep them to his owne use. 3. *Fac. c. 13.*

Lay person not having in lands 40. s. *per annum*, spirituall person a benefice not 10. li. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall be imprisoned for a yeare 13. R. 2. c. 13. *Vide Parks.*

Hundred.

Hundred with the liberties therein to bee equally taxed by two Justices of Peace, one to be of the *Quorum*, in or neere the hundred, for relief of those that are robbed. 27. *Elis. cap. 13.* *Dal. 132. 299.*

The robbed shall not have his action upon the statute of 27. *Elis. c. 13.* except he first with all speed convenient give notice of the robbery to some inhabitant near the place where he was robbed.

2. Commence his suit within a yeer next after such robbery committed.

H

3. He

3. Hee being examined upon his oath within 20. daies next before such actions brought by one Just. where the robbery was committed dwelling near to the hundred if he knew the robbers, or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by enditement, or otherwise by course of law. *Dal.* 131.

The hundred must answer the losse, if the robbers be not taken within 40. daies. *Dal.* 131. 299. *Cro.* 179. a. *Vide* Robbery.

A man is slain in the day time out of a town, and the murderer doth escape, the hundred shall be charged therewith. 299.

Jury of one hundred may present an offence done in another hundred. *Lam.* 399.

“ Robbery in a house doth not charge the
“ hundred, though it be in the day time. *Dal-*
“ *ton* 133.

“ Robbery in the night doth not charge the
“ hundred, yet if it be by day-light, though
“ before sun-rising or after sun-setting, the
“ hundred shall answer it. *Dal.* 133. *Coke* l. 7.
“ *fol.* 6.

“ If upon pursuit, the offenders or any of
“ them be taken, the hundred shall not be
“ charged. *Dal.* 133.

“ If the party robbed take any of the thieves
“ after Hue and Cry made, it excuseth the
“ hundred. *Dal. ibid.* *Cro.* 179. b.

“ He w^h is robbed shall not have his action
“ where one of the felons is taken, but if there
“ be

“be no Hue & Cry the village shall be amer-
 “ced, though one of the felons be taken. *Cro.*
 “179.b.

Vide plus Hue and Cry.

Hue and Cry.

For the apprehending of homicides, bur-
 glars, robbers, and other felons, hue and crie
 shall be made, and every man shall follow the
 hue and crie; and he that doth not, shall be at-
 tached to appeare before the Justices of gaol-
 delivery. It seemeth any Justice of Peace may
 bind him over by the commission. *Dalt.* 299.
Cro. 179.b.

Hue and Crie ought to be made from town
 to town, from countrey to countrey, by horse-
 men and foot-men. 13. *Ed.* 1. c. 12. 27. *El.* c. 13.
Dal. 75. *Cro.* 178.b. 179 a.b. otherwise it is no
 lawfull pursuit.

Upon committing of any robberie or felo-
 nie, the Officer of the town where it was done,
 ought to send hue and cry to every town round
 about him. *Dal.* 75. *Cro.* 178.b. nu. 1.

Every Justice of Peace may cause hue and
 crie, fresh suit and search to be made upon any
 murder, robberie, theft, or other felony com-
 mitted, by force of the first *assignavimus*.
Dal. 49. 75. *Lam.* 185.

By a false hue and crie to enter into any
 house with the Constable, to bind and rob the
 Constable and master of the house in the
 night, is burglary. *Dal.* 257. *Cro.* 32. b. nu. 24.
Lam. 263.

Vide plus Robberie.

“The inhabitants of any hundred (either within the county wherein the robbery was done, or in any other county wherein default shall be of fresh suit after hue and cry made) shall satisfy the moiety of such money as shall be recovered against the hundred where the robbery was done. *Dal.* 132.

“In levying hue and cry it is necessary to give notice of the thing stolne, as horse &c. of the colour and speciall marks: so of the theeves person, apparell, &c. to search suspected places, and to take suspicious persons, and bring them before a Justice of Peace to be examined. *Cro.* 178.b.

“If any raise hue and cry without cause, he shall be attached for disturbing the Peace. *Cro.* 179.a.

Jesuites and Seminary Priests.

ANy Justice of Peace within the county in which any Jesuite, Seminary Priests, or other Priests, Deacons, religious or Ecclesiasticall person shall arrive or land, may within three dayes after take the submission, oath, and acknowledgmen of him touching his obedience to the King and lawes provided in cases of religion. 27. *El.c.2. Lam.* 198. *Dal.* 104.

Every one understanding that any such Priest, &c. shall be within any of the Kings dominions, ought to discover the same to some Justice or other superiour officer, within ten dayes after such knowledge, under the pain of fine and imprisonment; and the Justice with-
in

Jesuites & Seminary Priests. 149

in 28. daies must give information thereof to one of the privie Councell, on pain of 200. marks. 27. *El. c. 2. Lam. 193. Dal. 104.*

Two Justices of Peace of the County where any of the Kings Subjects that are no Jesuites, &c. brought up in any Colledge of Jesuites, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two daies after their returne take their submission under the oath of supremacy. 1. *El. c. 2. 27. El. 2.*

To receive Jesuites or Seminarie Priests, contrarie to the statute, is felony. *Lam. 414. 27. El. c. 2.*

Any within three daies after the offence committed, discovering to any Justice of Peace any recusant, Seminarie, or Popish Priest, or any Masse to have beene said (any of them then present there) and by reason of his discovery, any offender be taken and convicted, he shal be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3. *Jac. c. 5. Lam. 199. Dal. 106.*

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

Information.

Information against a felon; whether it shall be taken by oath or no is uncertain: but *Lamb. 213, 214, 215. & Dal. 307. & Cro. 194. a. nu. 5.* do best allow it by oath, and so do divers Judges in their circuits.

No proces can be awarded upon information of a private person, unlessse where the statute

particularly warranteth inquirie by information, as the statute of 5.*Eliz.c.4.* of labourers, 5.*Eliz.c.21.* of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace: so much thereof as is materiall hee must put in writing within two daies after the examination. *Lamb.212.2.& 3.Ph.& Ma.c.10.Dal.303.*

Two informe against another in matter of felony, and do varie in their tales, viz. in the day and place when & where it was committed; such information is not to bee credited. *Dal.303.Cro.100.a.*

The bringer of the suspected will not informe, it is meete to binde him over to give evidence. *Dal.206.*

Forme of a recognizance for the informer against a felon. *Lam.214,216.*

“ It is not necessary in an information for
“ the King to recite the statute upon which the
“ Bill is framed, but to say *contra formam statutum in hujusmodi casu editi & provisi.* Crom.
“ 104.b.nu.50.53.

Informers and Promoters.

Informer compounding for any offence against a penall law, without consent of some of the Courts of Westminster, or willingly delaying or discontinuing a suit, loseth 10 pound and is to stand in the pillorie being convict thereof at the Quarter Sessions. 18.*El.cap.5.* 27.*El.c.10.Lam.439,609.* the same to be heard at the Quarter Sessions.

“ All actions for any offences against any
“ penall statute, shall be commenced in the
“ County

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“ County only where the offence was committed, and upon the defendants pleading
“ *Nihil debet*, or Not guilty, the plaintife must
“ prove, 1. the offence, 2. to be done in the
“ county. 21. *Jac. c. 4.*

“ No officer shall receive, file, or enter of record, any information, Bill, &c. untill the
“ informer hath taken his oath before some
“ Judge of that court, that the offence was
“ done in the same county within a yeere
“ before the information or suite. 21. *Jac. c. 4.*

Ingrosser.

Ingrosser is hee that by any contract (unlesse by grant of land or tithe,) buyeth corne on the ground or other dead victuals, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meale. Victuallers not forestalling, Badgers and Drovers not abusing their lawfull licence, buyers of forrein commodities, except fish and salt, are excepted, 5. *Ed. 6. c. 14. 5. Elis. c. 12. 13. Eli. c. 25. Lam. 451.*

Inne-holder.

Inne-holder taking any thing for litter, or excessively for hay, or above a halfe penny a bushell above the market for oats, loseth foure times the value of the overplus. 13. *R. 2. c. 8. 4. H. 4. c. 25. Lam. 473.* repealed by 21. *Jac. c. 21.* *Vide plus Horse-bread.*

Inne-holder or Ale-house keeper may be compelled by a Constable to lodge strangers. *Dal. 28.*

Inne-holder that suffereth a non-inhabitant to tipple in his house, shall incurre the penaltie limited, 1.*Jac.c.9.* 1.*Car.c.4.*

Inne-keeper, taverner, victualler, is within the statute. 1.*Jac.9.c.4.* *Jac.c.5.* 1.*Car.c.4.*

Inmates, *vide* Cottages.

Inrolment.

One Justice of Peace may joyne with the Clerk of the Peace in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same countie, and either of them is to have 12 pen. if the land exceed not in value 40 shillings a yeere; and if it doe, then 2 shillings 6. pence a piece; and taking above, fined. 27.*H.8.c.16.* *Lam.* 196, 369, 393, 436.

Issues.

The Sheriff that gathereth other estreats of issues then of right are due, forfeiteth 5 marks to the King, as much to the partie. 27.*Elif.c.7.* *Cro.* 201. a. *Lam.* 432. Forfeitures of issues by jurors are to bee levied by Records of execution awarded by the Justices of Peace. 27.*Elif.c.7.* *Lam.* 585.

Judgement.

Ambiguitie arising in judgement betwixt the Justices of Peace, they shall forbear to proceed till the Judges come; but if they will proceed, the judgement is not void, but must be reversed. *Lam.* 568. The commission it selfe.
Where

Where the statute appointeth a punishment, there judgement must be according to the statute *Lam. 570.*

Upon trespassse, riots, and such other offences: where no forfeiture is prescribed, judgement is to be taken and ransomed. *Lam. 570.*

Vide plus the severall offences.

Juglers, *vide* License.

Jurors.

Jurors both for enquire and triall, ought to be *Probi & legales homines. Lam. 396.*

What persons may not bee Jurors, and being Jurors make presentments void, unlesse there bee twelve besides.

1. Attainted in conspiracie, 2. Attaint, 3. *Decies tantum*, 4. Subornation of perjury, 5. Concealment they bee not *probi*, and their presentment void, unlesse there be twelve besides them that are not blemished. *Lam. 396.* 6. Outlawed, 7. Abjured, 8. Condemned in a *Premunire*, 9. Attainted of treason, 10. Felonie, &c. *ibid.* 11. Women, 12. Infants under 14 yeeres of age, 13. Aliens, 14. Clergie-men. *ibid.*

Jurors must be inhabitants or freeholders within the Countie, to the value of 40. shillings *per annum*, but in Cities and Boroughs to the value of 40. shillings in goods. *Lam. 396. 397.*

Jurors for triall of an indictment within

H. 5. the

the Countie Palatine of Lancaster must have 5. pound *per annum. ib.*

Juror 70. yeeres old or decrepit, returned by the Sheriffe must serve if the Justices will; but he may sue the Sheriffe upon the Statute of *Westminster*, 2. c. 38. *Lam.* 397.

Juror exempted by Charter with these words *Licet tangat nos*, is to be discharged upon his appearance, but he ought to shew it to the Sheriffe. *ibid.*

When there is want of sufficient Jurors, no exemption can discharge. *ibid.*

Presentment is good though some of the Jurors be allyed to him that procureth the presentment: but it is no discretion in the Justices to suffer any such to be impannelled. *Lam.* 398.

If the particular Juries for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantibus*, of other hundreds, then to be renewed with a *Tales* from Sessions to Sessions. *Lam.* 398.

Jurie of one hundred may present an offence done in another hundred. *Lam.* 399.

Justices may command the Sheriffe to alter the pannell, and hee refusing forfeiteth 20. pound *ibid.* 3. H. 8. c. 12.

All the Jurors must be sworne, otherwise their presentments are void: but the Record being that all the Jurors were sworne, the presentments are good though all be not sworne. *Lam.* 399

Juror after he is sworne, upon cause may be removed by the Justices. *Lam.* 400.

Jurie after swearing adjourned to another time, may be then sworne again. *ibid.*

Jurors

Jurors of enquirie must be 12. but there may be more, and it is best to have them odde.
Lam. 400.

If 12. Jurors doe agree, the residue cannot gainsay. *ibid.*

Juries of enquiry ought not to be committed to a keeper, nor kept without victualls, nor carried out of the town, but may be adjourned to another place to give up their verdict.
Lam. 400.

Jurors which doe wilfully conceale offences presentable, and which bee complained of by bill, may be enquired of by persons whereof every one may dispend 40. shillings *per annum*; and such concealment being found within a yeare after, every Juror shall bee amerced in open Sessions. 3. *Hen. 7. c. 1. Lam. 400, 401.*

Jurors that discover what they have done, are to bee fined. *Lam. 402.*

Juror taking any thing to make a favourable presentment, shal be imprisoned and ransomed.
Lam. 441. Cro. 84. a. 5. Ed. 3. c. 10.

No Juror to be returned without an addition whereby he may be known. 27. *Elis. c. 7. Lam. 432.*

Vide plus Challenge.

Justices of the Peace.

Justices of Peace were created. 1. *Ed. 3. c. 15. Dal. 6. Lam. 20.*

Justice of Peace is Judge of Record. *Dal. 7. Cro 120. a. nu. 7. Lam. 62.*

He may take a recognizance of Peace, which none can doe but a Judge of Record. *Dal. 8. Lam.*

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Lamb. 186. Crom. 196. a. num. 1.

His warrant is not disputable by the Constable, but it is to be understood when the Justice of Peace hath jurisdiction of the cause. *Dal. 8. Cro. 147. b. Lam. 63. 91.*

His testimony in some cases is of as great force, and in some cases greater then an indictment of 12. men upon oath, as in the cases of force, riots, presentments of high-waies. *Dal. 9. Lam. 65.*

The authority granted to Justices of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by Writ under the great Seale. 2. By *Supersedeas*. 3. By granting a new commission and knowledge thereof. *Dalt. 11. Crom. 188. a. Lam. 69.*

2. By publishing the new commission at Assizes or Sessions, or any County Court.

3. By holding open Sessions by vertue of the new commission. *Dal. 11. Cro. 188. a. Lam. 69.*

4. "By accession of another office, as being "Sheriffe or Coroner of the County. *Cro. 121. "nu. 13. 14.* but so doth not the addition of a "greater name of dignity, as Knight, Serjeant "at Law. *Cro. 188. a.*

Exercising the office of a Justice of Peace before oath taken, is finable. *Dal. 15. 352.*

Justice of Peace hath not authority but in the County where he is Justice. *Dal. 23.*

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony. *Dal. 23. Cro. 120. b. nu. 12.*

Justice of Peace is not to intermeddle in any Citie

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Citie or Corporation, which have their proper Justices. *Dal.* 23. *Crom.* 8. a. nu. 39. 181. b. 189. a. *Lã.* 47. *Cro.* 121. a. nu. 20. 1. & 2. P. & M. c. 18.

Justices of P. ought not to execute their offices in their own case. *Dal.* 352. *Cro.* 68. a. nu. 4. Yet a Just. of P. being assaulted, may comit the offender to prison. *Cro.* 68. a. *Lam.* 134. *Dal.* 352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his owne possession, and commit the offender. *Cro.* 67. b. 68. a. nu. 4.

Justice of Peace chargeth one that maketh an assault or affray, to keep the Peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour. *Dal.* 195.

Justice of Peace must proceed by the prescript of the commission and statute. *Dal.* 20.

Where the statute referreth the triall, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath. *Dal.* 22. 155.

One Justice of Peace ought not to bind one to appeare at the Quarter Sessions, to answer his fault committed against a penall law, except the stat. of Labourers. *Lam.* 187. *Dal.* 339.

Every Justice of Peace is a conservatour of Rivers within his Countie. *Lam.* 189.

Justice of Peace not giving remedy to the partie grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert. 4. *Hen.* 7. c. 12. *Lam.* 370. *Cro.* 120. b. nu. 6. *Dal.* 353.

One Justice of Peace may command fressh suit,

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Suit, hue and cry, and search to bee made by officers and others, after thefts, robberies; enioyne watches for the arresting of suspected persons and night-walkers, high-waies to bee enlarged, that two Constables be chosen in every Hundred, forbid Faires and Markets in Churchyards, command all between 15. and 60. to be sworne to the peace, charge the Constable to arrest all such as bee suspected to bee drawlatches, wasters, or robbers of men, *Lā. 185*

Justice of Peace taking bond in his owne name, and not *Domino Regi*, in a cause touching the King, is to be imprioned. *33. Hen. 8. c. 39. Lam. 101. 147.*

Justices of Peace at their Sessions are of equall authority. *Lā. 385. Vide Cro. 1222. m. 33.*

Justice of Peace must send his prisoners to the common gaole. *Lam. 133. 5. H. 4. c. 10.*

A felon is brought before a Justice of Peace upon suspicion, though it appeare to the Justice hee is not guilty, yet hee may not set him at liberty, but so as hee may come to his triall. *Lam 233. Dal 279. 304. 353. Cro. 40. b. m. 20.* otherwise it will prove a voluntary escape in the Justice; for hee is not to bee delivered by any mans discretion. *Dal. 8. Lam. ut supra.*

A man is arrested for felony by a Constable or other, who afterwards hath knowledge that there is no such felony done, the opinion of *Keble. comshy*, and Serjeant *Frowick*, was, that he might set him at liberty: but if one be killed, and another bee arrested for suspicion, though after he know the arrested is guiltlesse, or was arrested for malice; he ought not to set him at liberty, but must be delivered by course of

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of law, otherwise it is felonie. *Cro. 40. nu. b. 20.*
Justice of Peace dwelleth, or is in another
county, he cannot cause one to be brought be-
fore him out of the county where he is Justice
into another county. *Dal. 23 Cro. 120. b. nu. 12.*

What things a Justice of Peace ought to doe ex officio.

Record a demurrer upon the evidence. *Lã. 539*

Give day to the party to bring in a Record
that is before other Justices, which is pleaded
by way of justification. *Lam. 539*

If thinking an enditement to bee void, they
have discharged the prisoner, paying his fees;
yet (upon change of their opinion) they may
stay him any time before judgement. *Lam. 540.*

Justices of Peace ought not to suffer the King
to be disadvantaged, if they may lawfully pre-
vent it. *Lam. 540.*

In absence of the Kings Atturney, the Justices
of Peace may take issue with one that pleadeth
a pardon, that he is one of the parties excepted.
Lam 540.

Justices of Peace cannot acquit felons by
proclamations; but if no prosecution be, they
are to keep them till the coming of the Justices
of gaol-delivery. *Lam. 550.*

Justices of Peace may enquire of all manner
of felonies at the common law, or given by
any statute, and of all manner of trespasses
done against the peace of the King, and of such
trespasser wherein action of the case will lie
for trespassse or deceit; for in the end of the
Writ grounded upon the case, it is contained
contra pacem nostram. Cro. 8. a. nu. 25.

“Justice

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“Justice of Peace shall be punished for conspiring with another to indict a stranger at the Sessions: but not for a thing done by him in Sessions as a Judge. *Cro. 122.a. nu. 32.*

One Justice of Peace rebukes another; neither he, nor any of his fellow Justices, can commit him, for all are by one authority: and therefore hath no remedy if the King will not remove him; but if one Justice abuse another in open Sessions, it seemes the rest may bind him to the Peace. *Cro. 122.a. nu. 33. 134.b. Lam. 385.*

Defaults against the statute. 3. *Hen. 6.c. 11.* for leyving of wages for Knights of the shire are to bee heard and determined by enquiry, for the King, or action for the party before the Just. of Peace. *Lam. 512.*

“Justice of Peace needs not shew his commission, by which hee is made Justice, when hee justifieth the doing of any thing as a Justice; for hee is Justice of Record, and the commission remaineth with the *Custos rotulorum* of the said County, and he is called by the commission in open Assizes and Sessions. *Cro. 120.b. nu. 13. Lam. 387.*

“Justice of Peace hath a Record in his hands, and is discharged of his office, hee cannot certifie the same without a Writ of *Certiorari*, although hee bee made Justice afterwards. *Cro. 121.a. nu. 15. & 132.a.*

“Justice of Peace may have his action of the Case against him that calleth him *False Justice of the Peace*. It seemeth also, that hee may be indicted: for they may enquire of all trespasses, where a man may have his action of the Case. *Cro. 121.a. nu. 21. & 122.a. nu. 29.*

“*Quicquid*

“ *Quicquid Justiciarius fecerit de Record,*
 “ *ignoranter & pro defectu sciencie, non erit pro*
 “ *eo punitus. Sicut accidit de Seneschallo liber-*
 “ *tatis Abbatis de Crowland, qui colore libertatis*
 “ *de Infangthefe, judicavit hominem mori contra*
 “ *legem: pro eo libertas seista fuit in manus Regis,*
 “ *& nulla poena Seneschallo. Cro. 121. b. nu. 24.*

“ *Justiciarius non potest puniri pro re per ip-*
 “ *sum facta judicialiter: sed Officiarii, ut Vice-*
 “ *comes & alii Officiarii de Record erunt puni-*
 “ *ti. Cro. 122. a. nu. 28.*

“ Just. of P. certifieth into the Kings Bench,
 “ that such a man broke the peace in his pre-
 “ sence, the party shalbe put to his fine without
 “ any Traverse to the same. *Cro. 132. a.*

“ Just. of P. who is of the Quorum, ought to
 “ be resiant within the County where he is Just.
 “ of the Quorum. *2. H. 5. c. 4. Cro. 122. a. nu. 34.*

“ Justice of Peace was put out of Commis-
 “ sion in *Camera Stellata*, for that he refused to
 “ take surety of the peace of one that came be-
 “ fore him, who offered to find surety of the
 “ peace; for that the Justice which granted the
 “ warrant was not his friend, and thereupon
 “ would not goe before him to bee bound. *Cro.*
 “ *Jurisd. of Courts. 31. b.*

“ One Just. of P. upon his view of forcible
 “ detainer may record the same by *15. R. 2. c. 2.*
 “ but in case of Riot or Rout, &c. there must
 “ be two Just. of P. with the Sherriffe or Under-
 “ Sherriffe. *13. H. 4. c. 7. Cro. 61. b. nu. 9.*

“ Justice of Peace commandeth one upon
 “ paine of 10. li. by his precept, to bee at the
 “ next Q. Sessions, and he appeareth not: No
 “ *Scire facias* shall goe forth more then if
 “ there

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“there had been a *Subpæna*: but it seemeth
“that hee shall bee attached to be at the next
“Sessions, upon a contempt. *Cro. 123. a. 211. 9.*

“An affray is made within a Corporate
“Towne, whilst the Sessions be held there:
“And that Town hath Justices within it self,
“the Justices of Peace shall not entermeddle
“there: but otherwise it is at the Assizes.
“*Cro. 146. b.*

Labourers and Servants.

ONe Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to worke by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two daies and one night. *5. El. 6. 4. Dal. 77. Lam. 47 5.*

The Constable refusing to stock them, loseth 40. shill.

One Just. of Peace under his hand and seale may licence labourers in hay and harvest time to goe into another countrie to work. *Dal. ibid.*

One Justice of Peace upon complaint may compell meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusall commit them to ward, there to remain untill they be bound to serve according to the statute. *Dal. 77. 5. El. 6. 4.*

One Justice of Peace may take order betwixt the master and apprentice, for want of conformity in the master, bind him over to the Quarter Sessions, where foure Justices, one being of the Quorum, may discharge the apprentice:
and

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and if fault bee in the apprentice, inflict due correction, *Dal.78.* but if the first Justice find fault in the apprentice, *quare* if hee may by 7.*fac.c.4.* send him to the house of Correction, as an idle disorderly person. *Dal.78.*

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his terme. *Dal.79. 5.Elif.c.4.*

But an apprentice must bee discharged by foure Justices of Peace in open Sessions. *ibid.*

One Justice of Peace may command vagrant persons to prison, if they will not serve. *Dal.81.*

One Justice of Peace may make his Warrant to attach a servant departing, to be at the Sessions, or may send him to the house of Correction. *Dal.78.*

Two Justices of Peace, upon complaint that a servant departed before the end of his terme (except 1.cause be allowed by one Justice of Peace; or 2.at the end of his terme, without one quarters warning before two witnesses; or 3.hath refused to serve for the wages appointed by proclamation, according to the statute; or 4.hath promised to serve accordingly, and doth not) may examine the matter, and may commit without baile such faulty person till he be bound to serve and continue, and then he is to bee discharged without fee to the gaoler. *Dalt. 79. Lam. 230.*

Two Just. of the P. may imprison the master for 10.daies without baile, and the servant for 21.daies, that giveth or taketh greater wages then are allowed by statute. *Dal.80. Lamb. 330. and the master loseth 5.li. 5.El.c.4.*

All

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All retainer, promise, or payment of wages, or any other thing contrary to statute, and every writing and bond for the purpose is void. *5.El.c.4. Dal.79.*

Two Justices of Peace may imprison for a yeare or lesse any servant, workman, or labourer, that doth make assault or affray upon his master, or any that hath the charge or oversight of them, or of the worke, being proved by the confession of the party, or oath of two. *Dal.79.*

Or the Justices at the Sessions may inflict other punishment.

One Justice may bind the offender to the good behaviour, and so to the next Sessions. *Dal.79. Lam.330. & 473.*

Two Justices may compell any woman of the age of 12. and under 40. being unmarried, to serve by the yeare, week, or day, for such wages as they shall thinke meet, or commit her to ward till she be bound. *Dal.80. Lam.330.331.*

The retainer of any to serve in the arts of clothing, Wooll-weaver, Tucker, Fuller, Clothworker, Sheerman, Dyer, Hosier, Taylor, Shoemaker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Hatmaker, Feltmaker, Bowyer, Fletcher, Arrowhead-maker, Butcher, Cook, or Miller for lesse then a yeere, is void. *5.El.c.4. Lam.473. Dal.79.*

“No person shall interrupt, deny, let or disturb any free or rough Mason, Carpenter, Bricklayer, Plaisterer, Joyner, Hardhewer, Sawyer, Tiler, Pavier, Glasier, Limeburner, Brickmaker, Tilemaker, Plumber, or Labourer borne in the Realme, or any Denizen,

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“zen, to work in any of the said crafts, in any
“City, Borough, or Towne Corporate, with
“any that will retaine him or them, though
“they doe not inhabit, or be free there, upon
“paine of 5.li. the one moiety to the King, the
“other to the Informer. 5.Ed.6.ca.15.

Any unmarried, or under thirty yeeres and married, are compellable to serve in any of the said arts, or to be imprisoned untill they will serve, 5.El.c.4. upon request of any person using the said trades, except the person bee lawfully retained with some other, or have 40.shillings *per annum* in lands, or 40.pound in goods, or some farme in tillage. *Lam.473.Dal.79.*

None retained in husbandry to depart at his time into any other limit, towne, or parish, without testimoniall, on pain of 21.daies imprisonment, and to bee whipped, if then hee brings none; and receiver of such loseth 5.li. *Lam.474.Dal.85.*

Labourers not working so many houres as they ought, lose 1.d.an houre. *Lā.474.5.El.c.4.*

Servant falling sicke, or *non potens corpore*, the master may not put him away, nor abate his wages. *Dal.84.*

Any taking worke by great, and departing unlawfully before the work be finished, loseth 5.pound, and is to be imprisoned for a moneth. *Lam.474.5.El.c.4.*

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7.yeers, loseth 10.pound. 5.El.c.4. *Lam.475.Cro.83.a.*

Servant departing into another shire, is indicted for it in the County whence hee departed;
ted;

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ted ; the Justices of Peace may award a *Capias* to the Sheriffe of that shire whereunto hee departed, returnable before themselves. 5.*El.c.4.* *Lam.525.*

The sufficiencie of the cause of the masters putting away of his servant, or the servants departing from his master within his terme, must be proved at the Q. Sessions. *Lam.610.* 5.*Elif. cap.4.*

Houſhold ſervant ſpoileth the goods of his deceased maſter, and after proclamation in the Kings Bench maketh default of appearance there ; it is felony , but not enquirable by the Justices of Peace. 33.*H.6.c.1.* *Lamb.281.548.* *Dal.266.*

A man not able nor sufficient to keep a servant , doth retaine a servant ; ſuch retainer is void. *Dal.82.*

Retainer of a ſervant in husbandry without expreſſing any terme , ſhall be for one yeere. *Crom.184.a.* *Dal.83.* it is according to the ſtate. 5.*El.c.4.*

One retaineth a ſervant for 40.daies , and afterwards another retaineth him for a yeere ; the firſt retainer is void. *Cro.184.a.* *Dal.83.*

A ſervant cannot bee diſcharged by his maſter without his owne agreement, or for ſome cauſe allowed by a Juſtice of Peace. *Dal.84.*

An apprentice cannot be diſcharged by his maſter but by writing, for an apprentice cannot bee but by writing. *Dalt.85.Crom.184.b.* 185.b.

A ſervant put away ſhall have his proportionall wages for the time he ſerved , but it muſt be by the help of a Juſtice of Peace. *Dal.84.*

A ſer-

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A servant of his owne accord departing from his service, loseth all his wages. *Dal.84.*

A servant refusing to doe his service, it is a departure in law, though hee stay still with his master. *Dal.84.*

Detaining of wages, or of meat and drinke, is good cause of departure, but to bee allowed by a Justice of Peace. *Dal.84. Cro.185.a.*

A woman married after shee is retained, must serve out her time. *Cro.184.b. Dal.82.*

No servant in husbandry, artificer, or victualler, nor any labourer shall carry any buckler, dagger, or sword, on paine to forfeit the same, but for defence of the Realme, or travelling with their master, or about their masters businesse. *12.R.2.c.6. Cro.185.b.76.b.*

Any two Justices of Peace may give their consents with the Churchwardens and overseers, or to the greater part of them, to bind as apprentices the children of poore parents, till the age of the man-childe of 24. and of the woman till 21. *39.El.3. Lam.331.43.El.c.2. Da'.83.*

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation. *Dal.84.*

Retainer not-being according to statute, is void, except it be by Indenture. *Dal.84.*

Retainer upon condition is good. *Dal.84.*

Retainer without expressing in what office, is good. *Dal.84.*

Retainer for life is good. *Dal.84.*

Retainer for a yeere to serve when hee shall be required, is not good. *Dal.84.*

By retainer the servant is presently in service,

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vice, though he come not into his masters service indeed. *Dal. 84.*

The executor (the master dying) must pay wages to the servant hired according to statute, not otherwise, except it be by Indenture. *Dal. 84.*

Larceny.

Larceny is the felonious and fraudulent taking another mans personall goods, removed from his body and person, without his will, to the end to steale them. *Lam. 272. P. R. 129.*

Personall goods are { Wholly ano- { Dead,
thers { Alive,
His owne, yet also a
property in another.

In their owne nature chartels, as money, plate, household-stuffe, *Lamb.* 273. wooll severed from the sheeps backes, to take the skin and leave the body, the flesh of tame or wilde fowle or beast. *Lambert* 275. goods of the Church, Parish, or of an unknowne person. *Lam.* 276.

Once no chattels, and made chattels by the owner, as mowed corne, mowed hay, wood felled, apples gathered, &c. *Lam. 276.*

Alive, { Tame, as horses, beasts, sheep, swine,
pullen. *Lam.* 273. 274.
{ Wilde, and made tame by { Art,
{ Restraint
of liberty.
By

A tame deere by common law,
Lam. 274.
 By art, as } By statute a falcon, tarceler, lan-
 ner, lannerer, lost without bringing
 it to the Sheriffe to be proclaimed.
La. 274.

By restraint of their liberty, as yong pige-
 ons, young herons, young hawks out of their
 nests, fish in a trunk, stew, or pond. *La. 274.*

Where hee hath given a speciall
 propertie to another, as by bailmēt,
 pawning, &c. and feloniously taketh
 it againe. *Lam. 277. Dal. 270.*

A mans
 own
 goods, } Where one comming lawfully to
 the possession, by lending altereth
 the propertie, as by making of bor-
 rowed plate, and the lender taketh
 the metall feloniously. *Lam. 277.*
Dal. 270.

*In what goods Larcenie cannot
 be committed.*

In goods of { Profit.
 Pleasure.

Goods of
 profit, as
 where is } An owner: & they are { Reall.
 } Personal.
 No owner, as treasure trove,
 wrecked, strayed. *Lam. 276.*

Reall are } Distinct from the freehold, as
 charter of lād or a ward. *La. 275*
 Annexed to the freehold, as
 apples on the tree, a tree grow-
 ing, lead from a house or from a
 Church. *Lam. 276.*

Personall, as wild things using their wildnesse, as pigeons flying, hawks not reclaimed, fishes in the river, *Lam.* 274. pheasants, partridges, hares, conies, herons, swans, or deere that are abroad. *Lam.* 275. *Dal.* 270.

Goods of pleasure, as dogs, apes, parrats, singing birds, a diamond, rubie, or other stone not set in gold or silver. *Lam.* 275. *Dal.* 269.

Larcenie is { Grand larcenie,
Pettie larcenie.

Grand larcenie is, where the thing stollen is above the value of 12. pence, and is punishable by death. *Dal.* 262.

Pettie larcenie, if the thing stollen exceed not 12. pence, and is punishable by the discretion of the Justices before whom hee is arraigned, and forfeiteth his goods. *P. R.* 129. *Dal.* 262.

Divers pettie larcenies put in one indictment, and above the value of 12. pence, are punishable by death. *P. R.* 129. *Lam.* 273. *Dal.* 263.

Divers found guiltie of one larcenie above 12. pence, they all must die for it, for that felony is severall in law, even as those others were severed in act. *Lam.* 273. *Dal.* 263.

What acts doe amount to larcenie.

To carry away the plate delivered to me in a tavern to drink in. *Lam.* 278. *Cr.* 35. b. n. 4. *Dal.* 263.

To carry those things one is hired to carry, to another place then he was hired, and there

there feloniously to convert them to his own use. *Lam. 279. Dal. 264. Cro. 36. a. nu. 10.*

A servant not being an apprentice to goe away with the goods of his master above 40. shill. which were in his custodie. *Lam. 279. 280. Dal. 264.*

Carrier to convey away or convert to his owne use the goods after they are brought to the place appointed by the owner. *Dal. 264. Lam. 279.*

He to whom the key of ones chamber door is delivered, openeth the doore and taketh away the goods. *Lam. 279. Dal. 266.*

A servant receiving 20. pound in gold of his master to keep, changeth it into silver, and runneth away with it ; for gold and silver are both of one nature, *viz. money.* *Dal. 265. Cro. 50. a. Lam. 280.*

A guest is harboured, who carrieth away his sheets out of his chamber with purpose to steale them, and is taken in the house. *Da. 266 Cro. 35. a. nu. 2. Lam. 281.*

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40. shill. or converteth them to his owne use. *Dal. 265. Cro. 50. a. Lam. 281.*

A carrier embezels part of the goods committed to his charge. *Dal. 264. Cro. 36. a. nu. 11.*

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith. *Cro. 50. a. Da. 265. 266.*

A servant taketh away or spoileth the goods

goods of his deceased master; upon default of appearance in the Kings Bench after proclamation, it is felonie. *Dal. 266. 33 H. 6. ca. 1. Lam. 281.*

Taking an horse feloniously, and apprehended before he get the horse out of the close. *Lam. 282. Dal. 267.*

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledge he presently forsake her and his house. *Lam. 282.*

*What acts doe not amount
to larcenie.*

One having goods bailed unto him, converteth them all to his owne use. *Cro. 36. a. nu. 11.*

A carrier conveyeth the goods to another place then he was hired, and there converteth them to his owne use. *Lam. 278. Dal. 264. Cro. 36. a. nu. 11.*

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money. *Dal. 265. Cro. 35. b. nu. 550. a. Lam. 280.*

A wife stealeth goods in the company of her husband, or by his command; *quare* if it be without his compulsion. *Lam. 282. Dal. 272.*

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larcenie in neither. *Lam. 282. Dal. 272.*

Goods stollen by an infant under 12. a lunatick during his lunacie, a mad man, and deafe

deafe and dumb. *Lam. 282. Vide Dal. 272.*

Riding away with a lent horse. *Dal. 264.*

A clothier delivereth wool or yarn to his workfolks, who embezell or sell part thereof. *Dal. 264.*

Goods delivered to another to keep, and he consumeth them, or converteth them to his owne use. *Dal. 264. Lam. 278.*

So money or goods delivered to one to deliver to a third person, and the first receiver fleeth away with them, or converts them to his owne use. *Dal. 264.*

A servant hath a horse delivered by his Master to ride to market, or money to go to a faire to buy cattel or other, or to pay to another man, and the servant goeth away therewith; *quare* if it be felonie by statute. *Dal. 265.*

A receiver receiveth his masters rents, & goeth away with them. *Dal. 266. Cro. 50. a.*

3. Leather.

Butcher that gasheth, slaughtereth, or cur-reth the hide of the ox, steere, bull or cow, whereby it is impaired, loseth 20. pence; or that watereth any hide except in June, July, or August, or putteth to sale any putrified or rotten hide, loseth for every hide 3. shill. 4. pence. *1 Jac. 22. Lam. 462.*

Butcher using the said craft and also the mysterie of tanner, loseth every day 6. shill. 8. pence. *ibid.*

Tanner using also the mysterie of a shoemaker, currier, butcher, or any artificer using
I 3 the

the curing or working of leather, loseth the hides and skins tanned, *ibid.*

Every person, other then such as had a tan-house 29. *Martii* 1603. and did then occupie tanning of leather, or hath been taught as an apprentice or hired servant 7. yeares in that myserie, or hath beene wife or son of a tanner brought up in this myserie 4. yeares, or the son or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tanhouse and fats, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him. *Lam.* 462. 463. 1 *Jac.* 22.

None may buy, contract for, or bespeak any rough hides or calves skins, but onely tanners or tawers of leather, except salt hides for the necessary use of ships, on paine of 6. shillings 8. pence for every hide. 1 *Jac.* 22. *Lam.* 463.

None shall forestall any hides comming to faire or market, (except of such as kill for the provision of their house) on paine of 6. shill. 8. pence for every hide. 1 *Jac.* 22.

None may buy tanned leather nor wrought, but such as will convert the same into made wares, (except necks, and shreds of sadlers & girdlers) upon losse of all the leather. *Lam.* 463. 1 *Jac.* c. 22.

Tanner suffering any hide to lie in the tanlimes till the same be over-limed, or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oak-bark, Tapwert, Malt, Meal, Lime, Culver

Culver dung, or Hen-dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sun, or hath tanned any rotten hides, or hath not suffered the hides for outward sole leather to lie in the woozes twelve moneths, and for the upper sole leather nine moneths, or hath negligentle wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sale any tanned leather, not wrought according to the statute, shall lose the hides or value of them. *1 Jac. c. 22. Lam. 463, 464.*

Tanner that raiseth with any mixtures any hides to be converted to backs, bend-leather, clouting leather, or any other sole leather, except the same be fit and sufficient for that use, loseth the hides. *1 Jac. c. 22. Lam. 464.*

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red and unwrought, being in open faire and market, wileffe it be searched and sealed in some open faire or market, or putteth to sale any leather not searched and sealed according to the statute, loseth for every hide or piece of leather 6. shillings eight pence, and also for every twelve calves skinnos or sheep skins 3. shillings 4. pence, and also the hides and skins or their value. *1 Jac. c. 22. Lam. 464.*

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dried, & the same so found by the tryers appointed, *1 Jac. c. 22.* loseth so much as is insufficient. *Lam. 464.*

He that setteth his fatts in tan-hills or other places where the woozes or leather to be tanned in the same may take any unkinde heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth 10. pound, and is to stand in the pillorie three market dayes. *1 Iac. c. 22. Lam. 464.*

Felling oaks meet to be barked where bark is worth 2. shillings a load, above the charges of barking and pilling, (timber for necessary buildings, and reparations of ships, houses, or mills excepted) but betweene the first of April and the last of June, loseth every tree or double the value. *1 Iac. c. 22. Lam. 464, 465.*

Currier that currieth any leather but in his owne house situate in a corporate or market towne, or hath curried any leather not well tanned, or not thoroughly dried after his wet season, or hath used in such wet season any deceitfull means to corrupt the same, or hath curried any outward sole leather with any other stuffe then hard tallow, or lesse of that then the leather will receive, or inner sole leather, or upper leather but with good stuffe being fresh and not salt, or hath not liquored them thoroughly, or hath scalded or shaven too thin, or gasht in shaving or otherwise, or not wrought sufficiently any leather, loseth 6. shillings 8. pence, and the value of every skinne marred, except gashing in shaving, and for such gashing double as much as the leather is impaired. *1 Iac. c. 22. Lam. 465.*

Currier

Currier that during the time that he useth currying, useth the feat of a tanner, cordwainer, shoemaker, butcher, or other artificer using cutting of leather, loseth 6. shil. 8. pence each hide. *ibid.*

Currier refusing to currie within 8. dayes in summer and 16. dayes in winter perfectly any leather brought by any cutter of leather, or his servant, bringing with him good stuffe for perfect liquoring of the same, loseth 10. shill. for every hide.

Shoemaker that maketh any Boots, Shoes, Buskins, Startups, Slippers, or Pantofles, or any part of them of English leather wet curried, (other then Deere, Calves, or Goats skins dressed like Spanish leather) but of leather well tanned and curried, or well tanned onely, and well sewed with thred well twisted, waxed, and rosined, with the stitches hard drawn with hand leathers, without mixing neat and calves leather in the over leather thereof; or hath put into any shooes, boots, &c. any leather made of sheep-skins, bull-hide, or horse-hide, or into the upper leather of any shooes, slippers, or pantofles, or into the nether part of boots, (the inner part of the shooes onely excepted) any part of the womb, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other then the best of the ox or steere hide; or into the inner sole other then the necks, wombe, pole or cheek; or in treswels of the double soled shooes other then the flanks of any the said hides; or hath put to sale any yeare betweene the last of September and the twentieth of

April any shooes, boots, &c. meet for any person above foure yeares old, wherein hath been any dry English leather, other then calves or goats skinnes dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3. shill. 4. pence for every paire, and the just value. 1 *Iac. cap. 22.*
Lam. 465, 466.

Every lord of faire or market, that doth not appoint and sweare yearly two or three honest and skilfull men to be searchers and sealers of leather there, and sixe honest and expert men to try the same leather, loseth 40. pound. *Lam. 466.* Such triers as doe not their duties therein without delay, lose 5. pound for every default. *Lam. 467.*

Searcher or sealer so appointed, refusing with speed to seale good leather, or allowing insufficient leather, loseth 40. shillings; or receiving any bribe or exacting any undue fee for execution of his office, loseth for every offence 20. pound; or refusing to execute the said office being duly elected, loseth 10. pound. *Lam. 467.*

Hee that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registering the same and the price thereof, loseth the value of the leather. *Lam. 467. 1 Iac. c. 22.*

Steward of a leet cannot grant suretie of the Peace, unlesse it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office, or binde him to his good behaviour. *Lam. 14.*

Hee may also take presentment of an offence against the Peace. *ibid.*

« In every leet or market, there ought to
« be a Pillorie and Tumbrell, and for want
« thereof the Lord of the Leet or Market
« shall make a fine to the King. *Dal. 151.*

Cro. 149.

Lent, *vide* Fish dayes.

Liberties and Franchises.

« Liberties and Franchises be such which
« have returne of Writs, and not such as are
« Counties of themselves, as London, York,
« Norwich, &c. nor townes which have by
« grant of the K. Just. of P. so that no other
« Just. do intermeddle. *Cro. 8. a. nu. 30. Dal. 23.*
« 2. & 3. P. & M. 18.

Justice of Peace may execute his authoritie within any liberties, not being a countie within it selfe, and it is good, but the libertie may have their remedy against him. *Lam. 47, 48. Dal. 23. Cro. 8. a. nu. 30. 18 1. b. 189. a.*

Libellers.

A man finding a Libell against a private man, must presently burne it, or deliver
it

it to some Magistrate. *Dal.* 193.

If against a Magistrate or publique person, to deliver it to some Magistrate, that by examination the author may be found out. *Dal. ibid.*

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the Peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrells and effusion of blood, and speciall occasions to the breach of the peace. *Dal.* 194.

Libelling is by scandalous writings, by book, ballad, epigram, or rime; 2. by scandalous words, as scoffes, jests, taunts, or songs; 3. by hanging up of pictures or signes of reproach, neere the place where the partie trafficked doth converse most, as gallows, cuckingstoole, pillorie, hornes, or such like. *Dal.* 194. *Cook* 5. fo. 125.

Licenses.

Two Justices of the Peace may license poor diseased persons to travell to the Baths for remedie of their griefe, so as they be provided of reliefe for their travell, and beg not. 39 *El.c.* 4. *Dal.* 101. *Lam.* 332. 1. *Iac.* c. 25.

Justice of P. dwelling neere where any person having suffered shipwrack shall land, may and ought to make a testimoniall under his hand to such persons of the landing, &c. and thereby to license them to passe the next direct way to their place of birth or dwelling,

ling, and limit them a convenient time for their passage. *Dal.* 100. 127. *Lam.* 303. 39 *El.* 4. 39 *El.c.* 17. 1 *Iac.c.* 25.

No Justice or Justices of Peace (as it seemeth) can in any case license any poore man to wander, or beg at all. *Dal.* 101. 127. *Lam.* 303. 39 *El.c.* 17.

Convicted for abusing of a license of transportation of victuall, shall be committed for a yeare without baile or mainprife. *Lam.* 349. 1. & 2. *P. & M.c.* 5.

Licenses for badgers, drovers, &c. are to be granted in open Qu. Sessions by three Just. of P. whereof one of the Quo. and shall not endure above a yeare, unlesse the same be yearly renewed. 5. & 6. *Ed.* 6. c. 14. 5. *El.c.* 12. *Lam.* 610. *Vide* Badgers.

Linnen cloth.

Hee that causeth to be used any racking, beating, or casting any deceitfull liquor, or other meanes on any kind of linnen cloth, whereby it becommeth deceitfull, or the worse for use, forfeiteth such cloth, and is to have imprisonment for a moneth at the least, and to be fined according to the Justices discretion. 1 *Eliz.* 12. *Cro.* 50. a.

Lying in a way, *vide* Way-lying.

Log-wood, *alias* Block-wood.

Suspected to have offended against the statute for log-wood, upon information to a Justice

Justice of Peace, the suspect or his servant or workman may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examines shall be bound over to the next gaol-delivery or Quarter Sessions, and there be judged to forfeit 20 pounds, and pillorie one or more market dayes, or upon refusall to be bound to be committed to the gaol till he will be bound. 39 *El.c.11. Lam.613. Dal.48.*

Any two Justices of the Peace, where any log-wood shall be found, in whose hands forever it shall be, may cause the same to be burned. 23 *El.c.9. Dal.48. Cro.1984.*

Long bowes.

Any above the age of 24. yeares shooting at standing pricks under eleven score yards with any prick shaft or flight loseth 6. shillings 8. pence. 33 *H.8.c.9. Lam.481.*

Masons.

The causing of masons to congregate themselves in chapters, is felonie. *La. 227.*
3 *H.6.c.1.*

Mainprise, *vide* Baylement.

Maintainers and Embracers.

Maintainers and embracers of a Jurie enquiring

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quiring of a riot, forfeit twentie pounds, and to be committed to prison, and to remain according to the discretion of the Justices. 19.

H. 7. cap. 13.

The Justices which shall sit upon the inquisition of riots with the Sheriffe or undersheriffe, ought to certifie the names of the maintainers and embracers of a Jurie, with their misdemeanours which they know, by which the truth of the said riot is not found, upon paine of 20. pound for every one that hath not a reasonable excuse. 19 *H. 7. c. 13. Cro. 199b.*

Maintainers of quarrels and embracers of Jurours are to be imprisoned, and bound to the good abearing. 33 *H. 8. c. 10. 37 H. 8. c. 7. Lam. 440.*

Maintenance is where any man giveth or delivereth to another that is plaintiffe or defendant in any action, any thing to maintain his plea, or else maketh extreame labour for him where he hath nothing to doe therewith. *Termes of the Law.*

Embracer is hee that when a matter is in tryall betweene partie and partie, commeth to the barre with one of the parties, having received some reward so to doe, and speaketh in the case, privily labourerth the Jurie, or standeth there to survey or overlook them, thereby to put them in feare and doubt of the matter: but men learned in the law may speake in the case of their Clients. *Termes of the Law.*

Maim.

He that hath maimed another of any member, whereby he is lesse able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made shrink, or other member or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans bodie, by means whereof hee is made the lesse fit to defend himselfe, or offend his enemy, he and his accessaries shall be grievously fined. *Lam. 429. Term. of Law.*

Justices of Peace cannot upon an enditement of maim, make the tryall by their owne view and inspection, as the J. of the K. Bench may doe. *Lam. 532.*

If Justices of Peace stand in doubt whether the hurt be a maim or not, they may use the help and opinion of some skilful Chirurgeon to consider thereof. *Terms of Law.*

• Indictment of maim must be *felonice maimavit. Cro. 101. a. nu. 3.*

Malt.

If any Bailiffe or Constable of any borough or other towne shall finde any malt made contrary to the statute, 2. & 3. E. 6. 16. & 27. Eliz. 14. then with the advice of any Justice of the Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices under the common price of the market, as to their discretion shall

shall seeme convenient. *Lam.* 202. *Dal.* 86.
21 *Iac.* c. 28.

Any two Justices of the Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions, and shall commit him to prison without baile or mainprise for three dayes, untill hee become bound in forty pound to performe such restraint. 39 *El.* c. 16. *Lam.* 332, 202. *Dal.* 86.

The Justices of Peace or the greater part of them, may in open Qu. Sessions restraine the converting of barley into malt. 39 *El.* c. 16 *Lam.* 613. *Dal.* 86.

Malt must be 3. weekes in the fat, on the floore steeping and drying, except in June, July, August, and then 17. dayes, or lose 20 pence for every quarter. *Lam.* 451. *Dal.* 87.

No insufficient malt mingled with good malt must be put to sale. 2. & 3. *E.* 6. c. 16. & 27. *El.* c. 4. *Lam.* 452. *Dal.* 87.

No malt shall be put to sale that is insufficiently trodden, and out of which for every quarter hath not beene fanned one peck of dust. *ibid.*

Man slaughter, vide Homicide.

Mariner.

Mariner comming from beyond the seas, or a seafaring man having suffered shipwrack, and in want, may be licensed by the next Justice of Peace to his landing, to aske reliefe in his journey homewards. 39 *Elizab.* 4.
Lam.

Lam. 303. Dal. 127. 1 Jac. cap. 28.

No fisher man to be taken for a mariner by the Kings commission, unlesse chosen by the two next Justices to the place where he is to be taken. *5 El. 5. Lam. 359. Dal. 87.*

Mariner departing from his Captain without license, or wandring idly without, or with a forged license, knowing thereof, is a felon. *39 El. 17. Lam. 227.*

Any poore Mariner or Souldier comming from beyond the seas, that shall repaire to his place of birth, &c. and cannot there get work, two Justices of the Peace next adjoining may take order to set him to work, and for want of work taxe the whole hundred for his reliefe, till sufficient work may be had. *39 El. c. 17. Lam. 359. Dal. 138.*

“ Mariner forging a Testimoniall, or carrying the same, knowing it to be forged, it is felony. *Lam. 228. Dal. 289. 39 El. c. 4. & c. 17. 1 Jac. ca. 7.*

“ Mariner landing and not having a Testimoniall under the hand of some Just. of Peace, neere the place of his landing, setting downe, 1. the time and place of his landing, 2. the place to which he should passe, 3. and the time for his travell, 4. or exceeding that time fourteene dayes, it is felony. *39 El. cap. 17. Dal. 289. Lamb. 303.*

“ But if he have such a Testimoniall, and pursue the same, he may ask and take such necessary reliefe as shall be given him. *39. El. cap. 17. Lam. 303.*

Vide Felony by Statute.

Market

He that is owner, &c. of any faire or market where horses, geldings, mares, or foales are to be sold, and doth not yearly assigne one open place where the said horses, &c. shall be sold and one to take Tol, who shall continue there from 10. in the morning untill sun set, forfeiteth 40. shil. for every day. 2. & 3. P. & M. c. 4. Cro. 91. a. Lam. 471.

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kind. Dal. 74.

Sale in faire or market doth not take away the owners propertie, the buyer knowing that it was anothers. Dal. 74.

Vide Horses.

Marriage.

If any married person marrieth another, the former wife or husband being alive, except the husband or wife have beene beyond the seas seven yeares together, or hath beene absent within the Kings dominions 7. yeares together, the one not knowing the other to be alive, or was at such marriage lawfully divorced, or the former marriage by sentence ecclesiasticall declared to be void, or was had within years of consent, it is felony, 1 Iac. 11. Lamb. 421. Dal. 289. Cro. 52. a. without corruption of blood, losse of dower, or disinheriting any heire.

Massic.

To sing Masse, forfeiteth 200. marks and a yeares imprisonment. To heare it, forfeiteth 100. marks and like imprisonment. 23 *El.c.1. Lam. 413.*

For the discovery of any who hath been at Masse, *vide* Jesuites.

Master, *vide* Servant & Labourers.

Measure, *vide* Weight.

Messages false.

Two J. of P. one being of the *Quorum*, may (as it seemeth) binde over to the next Qu. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such, or baile them to the next Q. Sessions. *Dal. 47. 33 H. 8. c. 1. Vide plus Cozenage.*

Milch Kine, *vide* Calves.

Minstrels, *vide* Rogues.

Misprision.

Misprision is properly, where one knoweth that another hath committed treason, or felony, but was not consenting thereto, and will not discover the offender to the K. or his Council, or to some magistrate, but conceals the offence. *Dal. 234. Stam. 37. T. of Law, 131.*

A Chaplain fixed an old seale to a new Patent of non-residencie, it was holden misprision of Treason. *Term of Law, ibid. Dal. 229.*

Knowing money to be counterfeited, and bringing

bringing it out of Ireland into England and uttering it in payment, is misprision of treason. *Term of Law, ibid. Cro. 44. b. Stamf. 38. 3 H. 7. 10.*

For misprision of felony he shall onely be fined. *Dal. 234. Term of Law, ibid. Cro. 44. a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement. *Dal. 231.*

To strike a Juror in presence of the Justice sitting in place of Judgement. *Dal. ibid.*

To strike one in Westminster Hall, any of the Kings Courts sitting. *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason. Dal. 234.

A stranger rescuing one arrested by a Justice upon an affray sitting in place of justice, whereby he escapeth, is misprision of Treason. *Dal. 231.*

For offenders in high treason, misprision of treason, *Premunire*, though J. of P. cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing material, & put it in writing under the hands of the informers, & commit the offenders to gaole, and binde over those which prove anything material to appear before the
Lords

190 Misprision of Treason.

Lords of the Councell, or elsewhere to give evidence upon reasonable warning, and to certifie their doings to some of the Lords of the Councell or elsewhere. *Dal. 235.*

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to doe any of them, and doth not within 20. dayes disclose it to some Justice of the Peace, or higher officer, it is misprision of treason. 23 *El.c.1. Lam. 412.*

Within 6. weeks after any Bull or other instrument of reconciliation hath been offered, not to reveale it to some of the privie Councell or Presidents of the North, or Wales, is misprision of treason. 23 *El.c.1. La. 413.*

Misprision of Felonie.

He that seeth one killed by another, or robbed, or any other felonie committed, and is not of their confederacie, and doth not make resistance, or disturb the felon, or levye hue and cry, but conceale the same, it is misprision of felony, and fineable. 14 *H.7.c.31. Cro. 44. Dal. 296.*

A man fore knoweth of a felony to be done, and concealeth it, and it is effected; it is misprision of felony *quere Cro. 41.b.nu. 5. Da. 298*

Every treason or felony doth include misprision, so that where any hath committed treason or felony, the King may cause

as cause the offender to be indicted and arraigned but of misprision. *Cro. 44. b. Da. 334. Stamsf. 37. d.*

Mitigation of fines and forfeitures,
vide Lamb. 577.

Mittimus.

Mittimus must containe the names of the parties, their offences, and time of imprisonment, that it may appeare whether the Prisoner be bayleable or not, *Lamb. 297. Cro. 153. a. nu. 11. Dal. 319 396.*

If one bee committed without baile or mainprise, and the cause is expressed in the *Mittimus*, and yet is baylable, other Justices of the Peace may baile him: yet *Quare*, seeing their authoritie is equall. *Dal. 319.*

The forme of the *Mittimus*.

To send felons to the Gaole. *Lamb. 210. Dal. 394.*

To send riotters to the Gaole, *Lamb. 321.*

To send shooters in peeces, *Lamb. 297. Dal. 398.*

To send upon forcible entry, &c. *La. 150.*

To send to the house of Correction, *Dal. 396.*

To send an Ale-seller without licence, *Dal. 387.*

To send a reputed father of a bastard, *Dal. 392.*

Monasteries,

Monasteries, *vide* Religious houses.

Mortuaries.

Spirituell person not to take mortuaries or any thing for them, where they have not beene used to be payed, or where the goods of the dead are under 10. marks; taking above 4. shil. 4. pence where the goods are under 30. pound, or above 6. shill. 8. pence where they are above 30. pound & under 40. pound, or above 10. shill. where they are above 40. pound, he shall forfeit all taken above his due, and 40. shillings to the party grieved. 21 H. 8. ca. 6. *Lam.* 435, 436.

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felonie. 5 H. 4. c. 4. *La.* 227, 425.

Murder.

Murder is when one man upon malice pretended, prepensed, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the partie slaine be English or alien. *Lam.* 237. *Cro.* 21. a. nu. 1. *Dal.* 241. 239.

The killing shal have relation to the death and not to the stroke. *Cook* 4. 42. *Cro.* 21. a. nu. 1.

Malice is { Expressed, { *Cro.* 21. a. *Dal.* 241.
 { or
 { Implied, { *Lam.* 239.

Malice

Malice expressed is when it is knowne that there is malice betwixt them, *Cro. 21. a.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal. 241. La. 238.*

Malice implied is when one is killed suddenly without defence. *Dal. 241. Cro. 21. a. nu. 2.*

As where one killeth another without provocation. *Lam 239. Dal. 241.*

One busied, as reading, going over a stile, &c. killed. *Cro. 27. a. nu. 20. Dal. 241.*

One stabbed, not having weapon drawne. *1 Jac. c. 8.*

To kill an officer known, in executing process. *Dal. ibid.*

To kill an unknowne officer, if he shew his warrant, and if an officer hath the Kings writ or lawfull warrant, though it be erroneous, and slain in executing it, is murder. *La. 240. Dal. 241.*

To kill any magistrate or minister of Justice in executing his office, or in keeping the Peace. *Dal. 242. Cro. 25. b. nu. 51.*

A rioter killeth an officer or an assistant comming to suppress a riot, it is murder in all the rioters. *Cro. 23. b. num. 28. Lam. 241. Dal. 242.*

A Constable parting an affray, or any of his company comming to aid him, although it was suddenly and in the night. *Cro. 25. a. nu. 51. Dal. 241.*

A theefe killing a true man in resisting, is murder of malice prepensed. *Lam. 241. Dal. 241. Cro. 22. a. nu. 13.*

1 A man carryed his sick father into the frost, whereby he dyed. *Lam. 240. Dal. 242.*

2 An harlot hid her child and covered it with leaves, and a Kite struck it and killed it. *Dal. 242. Lam. 240.*

3 The owner knoweth his beast to be accustomed to hurt and doth not tye him up, and after the beast killed a man. *Lam. 239. Dal. 242.*

In these three cases voluntas reputabitur pro facto, for it sheweth that they had a will to hurt, and the will doth amount to malice, Dal. ibid. and so to murder.

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder, for he slew him in the said malice wherein he did assault him. *Lam. 239.*

One condemned to die is killed by a private person without warrant, or by the officer contrary to the judgement; it is murder, *Lam. 240.*

Prisoner killed by his gaoler by over hard keeping, it is murder. *Lam. 240.*

One commandeth his servant to beat a man, who beateth him so that he dieth thereof; it is murder in the commander. *Dal. 245.* murder in both, if it be in the commanders presence. *Lam. 241.*

Many come to doe an unlawfull act, and one in doing thereof killeth a man; it is murder in all, although they did but look on. *Dal. 245, 253. Cro. 22. a. nu. 10. 24. b. nu. 43. Lam. 241. Stam. 40.* If they be not present, yet if they be in the same house, or upon the same ground,

ground, it is murder in all. *Dal. 245. Cro. 25. a. nu. 5. Lam. 241.*

All present and aiding, abetting or comforting another to doe murder, are principals. *Dal. 245. Lam. 243. Cro. 22. a. nu. 15.*

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer. *Dal. 245.*

Murder is intended to one, and he killeth another, it is murder. *Lam. 243. Dal. 244.*

A. woundeth *B.* in fight, and after they meet suddenly and fight; if *B.* kill *A.* it is murder, for it is intended malice upon the former hurt; but if *A.* kill *B.* it is but manslaughter, for the hurt did appease his former malice. *Lam. 251, 238. Dal. 243.*

Two in suit meet and quarrell, and the defendant killeth the plaintife; *quare* if it be murder. *Dal. 244.*

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both. *Dal. 244. Lam. 242.*

The owner rebuked one stealing his pears, who killed the owner; it was adjudged murder, *Dal. 245. Lam. 241. Cro. 24. a. nu. 34.*

Poisoning of another wilfully whereby he dyeth, is and was murder by the common law, *Dal. 244.*

The party poisoned must die within a year and a day after the receiving of the poison. *Dal. 246.*

After the beating or hurting another, to make murder, or other homicide, the yeare and the day is reckoned from the

stroke given. *Dal.* 246. *Cro.* 23.b.nu.54.

An appeale hath relation to the death. *ibid.*

A woman delivered of a bastard, endeavouring privately either by drowning or by secret burying to conceale the death thereof, as that it may not come to light, whether it were borne alive or dead, but be concealed, shall suffer death as in case of murder, except she make proof by one witnesse that the child was borne dead. 21 *Jac.ca.* 27.

Justices of Peace may take Endictments of murder as of murder. *Lam.* 493.

“A man hath a horse that wil strike such as
“ come neere him, his master knowing it, ri-
“ deth among people, the horse killeth a man,
“ it is felony in the master. *Dal.* 242. *Lam.*
“ 239. *Cro.* 24.b.nu.45.

“Indictment of murder must expressly
“ have *murdravit*, for *ex malitia præcogitata*,
“ & *voluntate*, & *felonice interfecit*, is not suf-
“ ficient. *Cro.* 101.a.nu.4.

Musters.

Convicted before the Justices of Peace for offence against the statute of musters, shall be imprisoned 10. dayes without bail, unless he pay the forfeiture being 40.s. which is for absence without reasonable excuse, or not shewing his best furniture being commanded. 4. & 5. P. & M.c. 3. *Lam.* 349, 482.

The partie that sueth upon the statute of musters, is to recover the forfeiture belonging unto him by action, or bill of debt. *ibid.* *Lam.* 583.

Name.

THe names and surnames of the party indicted must be certainly expressed; and if the indictment be of an accessory in felony, the name of the principall must be set down also. *Lam.* 488. *vide* Additions.

Nets, *vide* Hunting, Partridges and Pheasants.

News.

Contriver, speaker, or teller of false or counterfeited news, whereof discord, &c. may arise betwixt the King and his Nobles, or any other false news, lies, or other false things of Prelats, Dukes, Earls, & Barons, &c. whereof discord & slander may arise within the realm, shall be imprisoned till he find out the author; and if he cannot find him, shall be punished by the advice of the Council. *West.* 13 *Ed.* 1. c. 33. 2 *R.* 2. c. 5. 12 *R.* 2. c. 11. 1 & 2. *P.* & *M.* c. 3. *Dal.* 326.

Next Justice.

Where the Statute of 13 *H.* 4. c. 7. willet the Just. of Peace most nigh in every County, where such riot or rout shall be, to do execution of the statute under pain of 100. pound, if any other Justices, that be not next unto the place shall execute the statute, it will excuse the next, because all have power alike, by the first part of the stat. *Lam.* 326, 327. *Dal.* 111. *P.* *R.* 30.

Night-walkers, *vide* Vatches.

198 Noble Personages.

A Noblemans promise to keep the Peace, hath beene held sufficient. *Dal.* 165. *Lamb.* 81, 82.

A Justice of Peace may not grant warrant of the Peace against a Lord of the Parliament. *Dal.* 165.

Nor against a Dutchesse, Countesse, or Baronesse; for they are Peers of the Realm, and shall be tryed by their Peers, and have the same priviledges that Dukes, Earls, and Barons have. *Dal.* 166.

Dutchesse, Countesse, or any Noble by birth, marrieth with a gentleman, she loseth not her name of dignity: but if she be made "noble onely by marriage, and her husband "dying, marry a Gentleman, she loseth her "dignity. *Cro.* 110. *a.* *Dal.* 166. *Vide* Clergie, that a Nobleman may have his Clergie for any felony, except wilfull murder and poysoning.

"None are noble under the degree of a "Baron. *Lam.* 539.

Non sanæ memoriæ.

There be 3. sorts of persons, *Non sanæ memoriæ*, or *non compotes mentis*. *Dal.* 248.

- 1 A natural foole, who is so from his birth.
- 2 He that was once of sound memory, and after by sicknesse, hurt, or other accident or visitation of God loseth it.
- 3 A lunatick, *qui gaudet lucidis intervallis*, and sometimes is of good understanding, and sometimes is not *compotes mentis*.

Nusans.

Every man may in a peaceable manner assemble a meet company to doe any lawfull thing, or to remove or cast down any common nufans. *Dal. 224. Cro. 66. a. nu. 64.*

“ One is indicted of Nufance and acknowledged it, infinite distresse shall go to the Sherife to remove it, and he shall not be received to his fine till the Sherife returne that it is removed. *Cro. 186. a.*

Obedience to the King.

IF any practise to absolve, perswade, or withdraw any from their naturall obedience to the King, or (for that intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome, or other estate, or if any have beene willingly so absolved, or have promised such obedience, it is treason. *23 El. c. 1. Lam. 412. Cro. 18. a.*

Colore officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a vaile to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*. *Cro. 57. b. nu. 2.*

Ordinarie.

His Fees, *vide Fees.*

The Ordinarie oweth not his attendance at the Sessions of the Peace, as hee doth at the gaol-delivery. *Lam. 395, 396.*

“ The Court may allow Clergie in strict-
 “ nesse of Law, though the Ordinary or his
 “ deputy be not there. *Cro. 118. b. nu. 44.*
 “ *Stam. 133. a.*

“ A felon adjudged to be hanged in sayling
 “ to reade may in favour of life have the be-
 “ nefit of Clergie at the gallows. By which
 “ it appeareth, that the Ordinaries presence
 “ is not of necessity. But this is intended,
 “ where the Felon is adjudged in the Kings
 “ bench, not at the Assises, for their Com-
 “ mission endeth with their Sessions, but be-
 “ fore Justices of P. it seemeth he may have
 “ his Clergie at the Gallows, for their com-
 “ mission continueth, and may allow Clergy
 “ without an Ordinary. *Cro. 119. a. nu. 54. 56.*
 “ *Stam. 132. b.* yea one reprieved may pray his
 “ Clergy at the next Assises, *Cro. 161. nu. 56.*
 “ The Judges are Judges of the Clerks rea-
 “ ding, and not the Ordinary. For if the Or-
 “ dinary say that he readeth, and cannot, he
 “ shall be hanged, & the Ordinary fined. *Cro.*
 “ *119. a. nu. 49. Vide plus Clergy. Extortion.*

Oath.

You shall sweare that the surety of the
 Peace, which you require against *A. B.* is not
 of any malicious intent, for vexation, but for
 very feare, and for the needfull preservation
 of your body and goods in safety; so help you
 God. *Lam. 83.*

Oath of the Justices of Peace, *vide Dal. 13.*

Oath of supremacie, *Dal. 14.*

“ Oath of Constables and Churchwardens
 “ is to be enlarged. *vide Tiplers.*

Oath

Oath of Allegiance. *Dal.* 15. 3 *Jac.* v. 1.
7 *Jac.* c. 6.

The *Custos Rotulorum* or any two Justices of the Peace, one being of the Quorum, may take the oathes of Under-sheriffes of their Countie, their Bailiffes, Deputies, Clerks, or under-officers, before they shal exercise their said offices. *Dal.* 138. See 27 *El.* c. 12. the forme of the oath.

Quare if Justices of the Peace may examine upon oath sureties of their sufficiencie. *Dal.* 171. Justices of Peace in their Sessions may doe it. *Cro.* 194. a. *Br.* imprisonment 18.

Default of Undersheriffes, their Clerks, Bayliffes, &c. in not taking their oathes for execution of their office, is to be heard and determined at the Quarter Sessions, 27. *Eliz.* c. 12. *Lam.* 615.

Under-sheriffes, Bailiffes, &c. doing any thing contrary to their oathes, lose to the partie grieved treble damages. 27 *El.* c. 12. *Lam.* 433.

Where the refuser of the oath of Allegiance shal incur a *Premunire*, vide *Premunire*.

Refuser of the oath of Allegiance is disabled to execute any place of judicature or office, being no office of inheritance or ministeriall function, or practise of the Law Civill or Common, or the science of Physick, Surgery, or the art of Apothecary, or any liberall science. 7 *Jac.* c. 6.

One Justice of Peace to whom complaint is made, may commit to the gaole without baile till the next Assizes, gaol-delivery, or Qu. Sessions, any above the age of 18. years

(under a Baron or Baronesse) which stand presented, indicted, or convicted for not comming to Church, or not receiving the Communion, or which by the Minister, perie Constable, and Churchwarden, or any two of them, shall be complained of to any Justice of the Peace, and by him suspected, may by such Justice be required to take the oath of allegiance, and may be committed without bayl til the next Assises, for refusing the oath of allegiance. 7 *Jac.c.6.La.199. Dal.82.107.*

Two Justices of the Peace, one being of the Quorum, may require any person of the age of 18. or above, under the degree of a Baron or Baronesse, to take the oath of allegiance, and on refusall to commit him to the gaol without bayle, till the next Assizes or Q. Sessions. 7 *Jac.c.6. Lam.363.*

Where the examination of a Justice of P. is the conviction of the party, there it ought to be upon oath: but where it is but to informe the Jurie upon the indictment, it needeth not. *Lam.536. Dal.159.* Though the statute doth not expressly say it shall be upon oath. *Dal. ibid.*

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence. For

If the examinee die before the tryall, the examination may be evidence; without oath many will speak coldly. It is the practise of the Courts in Westminster. *Dal.307. & 308. Cro.194.a.nu.5. Lam.213,214,215. Br.Examination 32.*

The refusing the oath of allegiance required by two Justices of the Peace, and the taking of the same and oath of supremacie by a conformed Recusant returning into England, are to be certified at the next Qu. Sessions. 7 Jac. c. 6. Lam. 362, 363. 616.

The oath of allegiance being required at the Q. Sessions of such as formerly refused the same, and being there rendered & refused, the refusers (other then Noblemen and women) incurre *Præmunire*, except women covert, who are to be sent to the gaol without bayle. *Lam. ibid.*

Orehyards and Gardens, *vide* Hedge-breakers.

Overseers of the Poore.

“ Overseers for the poore for every parish
 “ are to be nominated yearly in Easter week,
 “ or within a month after, by two Just. of P.
 “ one being of the Quorum, under their
 “ hands and seales, dwelling in or neere the
 “ parish. 43 El. c. 2. Lam. 360. Dal. 91.

“ Overseers and Churchwardens with two
 “ such Justices, may set to work, children of
 “ such as are not able to keep them; and all
 “ married and unmarried which have not
 “ means to maintaine them; And may raise a
 “ weekly stock or otherwise by taxation of e-
 “ very inhabitant and dispose thereof. *ibid.*

“ Overseers and Churchwardens (not let-
 “ ted by sicknesse or other just excuse allow-
 “ ed by two such Justices) shal meet monthly
 “ in the Church upon Sunday a fter Eve-
 ning

204 Overseers for the Poore.

ning Prayer, to consult about ordering of
the Poor, or forfeit xx.s. a piece. 43. *El.c.2.*

Any finding himselfe grieved with the
taxation made by the Overseers, &c. or by
the Justices, may have remedy at the Qu.
Sessions. 43. *El.ca.2.*

In disability of the parish, the two Just.
may tax any other parish within the hun-
dred. If the hundred be not sufficient, the
greater part of the Justices of Peace in
other Sessions may rate other parishes.
43. *El.c.2.*

Overseers and Churchwardens either
present or subsequent may by warrant of
two such Justices levy all sums and arera-
ges of any refuser by distresse and sale of
his goods. In default of distresse, two such
Just. may commit him without bayle till
payment made. 43. *El.c.2.*

Overseers may be committed till they
doe accompt. 43. *El.c.2.*

All to whom the overseers by 43. *Eliz.2.*
may binde apprentices, may take and keep
them as apprentices, and the overseers may
with the assent of two Justices of Peace, one
being of the Quorum, in their respective li-
mits where there be more then one, or by
assent of one Justice of Peace where there be
no more, set up, use and occupy any trade,
mysterie, or occupation, onely for setting
poore of the parish on worke wherein they
are overseers. 3. *Car.cap.4. Vide Poore.*

Pannell, *vide* Jurors.

Pardon.

AT the Common Law before the statute of 13 R. 2. stat. 2. c. 1. a pardon of all felonies was good for murders, and so for petty treasons. *Lam. 561.*

Pardon of all felonies is not good for murder or petty treason, except the pardon be with a *non obstante*, or that murder be therein expressly mentioned. *Dal. 246. Cro. 21. b. nu. 7.*

But it is good for accessaries, both before and after.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned. *Cro. 115. a. nu. 1. Lam. 562. Dal. 245.*

Breaker of the Peace after the Pardon, forfeiteth the Pardon, and may be hanged notwithstanding his pardon. *Cro. 115. b. nu. 16. Dal. 247.*

The King onely can pardon treason, murder, or other felony, or any accessary thereunto. *Dal. 247.*

Generall pardon is that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof. *Lam. 559, 560. Cro. 115. b. nu. 13.*

Pardon of abjuration is not good without speciall words of abjuration. *Lam. 562.*

Quere if a generall pardon for petty treason availe him that is indicted of murder, without the word *proditorie*. *Lam. 560.*

A generall pardon (comming betwixt the stroke and the death) of all misdemeanours, will availe for the death. *Lam. 560.*

Quere

Quere if a pardon of all offences (except persons outlawed of murder) will availe one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lam.* 560. *Cro.* 116.b.nu.17.

Pardon of attainder and execution for felony is not good for felony, without words * to pardon the felony it selfe. *Lam.* 562.

Pardon of a Gaoler for escapes of felony and traitors, is not good for voluntary escapes. *Lam.* 562.

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lam.* 562.

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor of one attainted of felonie. *Lam.* 561.

A speciall pardon ought to be pleaded under the great seale, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unlesse there be a dispensation by *non obstante*. *Lam.* 561.

Prisoner pleadeth a pardon, the I. of P. in absence of the Kings attorney may joyn issue that he is one of the persons excepted. *Lam.* 540. *Stam.* 103.

He that killeth another *se defendendo*, needs not sue to the King for a pardon. *Stam.* 15.b *Lam.* 253.

He that killeth one by misadventure, shall have a pardon of course without suit. *Stam.* 16 *Stat. of Glv.* c. 9. in both cases the goods are forfeited. The

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their tryall plead not guilty, and then the speciall matter being found by verdict, they shall be bayled; then they must sue forth a *Certiorari* to certifie the record to the Lord Chancellour, who shall make them a pardon of course under the great seale without suing to the King, *Stam.* 15. *Dal.* 250.

Park and Parker.

Hunters or killers of any Deer or Conies in the night or day time in any park or warren, or in any other inclosed grounds, and being thereof lawfully convicted, every such offender shall suffer three moneths imprisonment, and finde sufficient surety for the good behaviour for the space of seven years, or else continue in prison till he finde such sureties for the space of 7. years, and pay treble damages, or (if it be for deer) x. l. to the party grieved at his election, *5 ELc.* 2 r. 3 *Iac.* c. 13. *Dal.* 326. *Vide* Hunting.

Parson and Vicar, *vide* Ecclesiasticall causes.

Partridges and Pheasants.

Every Justice of peace may examine offences against the statute of 23 *ELiz.* cap. 10. for taking of partridges and pheasants in the night, and binde the offenders by recognisance with good surety to appeare at the next Qu. Sessions, &c. And after conviction
and

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and punishment take bond with sureties,
that for two years after they shall not of-
fend against the said statute. *Dal. 87. Lam.*
200. 23 *El. ca. 10.*

By 1. *Jac. cap. 27.* 1 He that shall shoot at,
kill, or destroy with any gunne, crosse-bow,
stone-bow, or long-bow, any partridge, pheas-
sant, house-dove, pigeon, heron, mallard,
duck, teale, wigeon, growse, heathcock,
moregame, or any such fowle, or hare. 2 Or
shall take, kill or destroy any partridge,
pheasant, house-dove or pigeon with set-
ting-dogs and nets, or with any manner
nets, snares, engines or instruments. 3 Or
shall take or willingly destroy the eggs of
any pheasant, partridge, or swan. 4 Or shall
trace or course any hare in the snow, or
shall take or destroy any hare with cords or
such instruments. 5 Or shall keep any grey-
hound for deere or hare, or setting-dogs or
nets to take pheasants or partridges, not ha-
ving lands of inheritance of 10. pound or 30.
pound *per annum* for life, or in goods 200.
pound, or be the sonne of a Knight, or sonne
and heire apparant of an Esquire: any of the
said offences being proved by the parties
confession, or oath of two witnesses before
any two Justices of Peace of the Countie
where the offence shall be committed, or the
party apprehended, shall be imprisoned for
3. months without bayle, unlesse he forthwith
upon his conviction pay to the use of the
poore there 20. shill. for every hare, fowle,
and egge, and 40. shill. for having every
such greyhound, setting-dog, or nets, or after
three

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three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognizances taken by two Justices of the Peace, must be returned at the Quarter Sessions. 1 *Iac.c.* 27. *Dal.* 89. *Lam.* 335.

By 7 *Iac.c.* 11. prooffe of one witnesse is sufficient for the taking of partridges and pheasants, with setting-dogs and nets, or other nets, snares, or engins, &c. the punishment as 1 *Iac.* 27. *Lam.* 334.

Killer of partridges or pheasants with hawks or dogs, by colour of hawking between the first of July and the last of August, upon conviction within six moneths after the offence by the confession of the party or oath of two witnesses before two Justices of peace, is to be imprisoned one moneth without bayl; unlesse he pay presently to the Churchwardens and Overseers of the poore where hee offended or was taken, 40. shill. for hawking, and twenty shill. for every partridge or pheasant taken. 7 *Iac. ca.* 11. *Lamb.* 335. *Dal.* 88.

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by lowbell or trammell, and there to let them goe againe, loseth 20. shill. a pheasant, and 10. shill. a partridge. 11. *H. 7. c.* 17. & 23. *El. c.* 10. *Lam.* 447.

Hawking in corne before it be cropped, without consent of the owner, loseth 40. shill. *ibid.*

Taker, killer, or destroyer, by guns, bows, setting-dogs, nets, or other engines, of any partridge

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partridge or pheasant, except the owner of a warren, Lord of a Manour, or having lands of inheritance in his owne or his wives right of the cleare yearly value of 40. pound, or for life of 80. pound, or goods worth 40. pound, and their household-servants authorized by them within their own grounds in the day time onely betwixt Michaelmas and Christmas, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned 3. moneths without bayle, unlesse he pay immediately unto the Churchwardens and Overseers of the poore of one of the said places, 20. shill. and be bound to the King by recognizance in 20. pound never to offend again: the same to be certified at the next generall Qu. Sessions. 7 *Iac. cap. 11.*

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every deere 40. shil. pheasant 20. shil. hare or partridge 10. shil. one moiety to the informer, the other to the poore of the parish. 1 *Iac. c. 27.*

Constable by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may take, carry away, detaine, kill, or cut in pieces any of them. 7 *Iac. c. 11.*

Offences against the statute of 1 *Iac. c. 27.* punished by it, are not to be punished by any former

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former, and are to be heard and determined by Judges of Assize in their Circuit, Just. of P. at Qu. Sessions, or two Justices of the Peace out of the Sessions. 1 *Iac.* 27.

“ Who may take partridges and pheasants
“ in their owne ground, and when. *Vide* 7.
Iac. cap. 11.

Peace.

Every private person that shall be present at any affray, assault, or batterie, ought to part them that fight: and if he take hurt, he shall have his action; but if they resist him, he may not hurt them. *Lam.* 131. *Dal.* 33.

Every man may stay the affrayers, til their heat be cooled, and then they may deliver them to the Constable to imprison them till they find sureties of the Peace; but they may not imprison them unless the one of them be in perill of death by some hurt, for then any man may carry the other to the gaol till it be known whether the other wil live or die. *Lam.* 131. *Dal.* 33. *Br. Coro.* 225.

He which hath mortally hurt another, flyeth into anothers house, any man that pursueth him with hue and cry, may break open the house, enter, and take him. *Dalt.* saith the Constable may. *Lam.* 131, 132. *Dal.* 34.

“ If an affray, forcible entry, or any
“ thing in disturbance of the peace be done
“ in the presence of a Justice of Peace, hee
“ may record it, and certifie the same, and
“ commit the parties presently. *Dal.* 89. *vide*
“ Affray.

“ If the Justice of Peace certifie into the
 “ Kings Bench that I. S. hath broken the
 “ peace, upon that Certificat I. S. shall be
 “ there fined, without allowing him any
 “ traverse. *Dal.* 89.

Peeres, *vide* Noble personages.

Pedlers, *vide* Rogues.

Perjurie.

Procuring any unlawfully to commit wilfull perjurie in any case depending in Court of Record, Leet, Court Baron, Hundred Court or ancient demesne, or hath corruptly suborned any witness sworn to testifie *in perpetuam rei memoriam*, or if any have upon such procurement or by his own act wilfully committed such perjury, the procurer shall forfeit 40. pound; and if not worth so much, half a years imprisonment without bayle, stand upon the pillorie for one houre, and disabled for a witness for ever after. *5 El. cap. 9. & 14 El. cap. 11.*

The perjured 20. pound and six moneths imprisonment, and ever disabled for a witness; and if not worth 20. pound, to have his eares nailed to the pillorie. *5 El. c. 9. & 14 El. c. 11. & 1 Jac. c. 25. Lam. 416. Cro. 18. a. b.* This offence to be heard and determined in the Qu. Sessions. *Lam. 609.*

Execution of the forfeiture upon the statute of perjurie, to be awarded by the J. of the P. before whom the conviction was. *Lam. 585.*
 Com-

Committing of perjurie upon answer to a bill of complaint is not within the statute of 5 *Eliz.* but for a false deposition upon examination upon interrogatories. *Crom. 18. b. nu. 3.*

If any give false evidence upon a bill of indictment at the Sessions, it is held he shall not be punished by the statute of 5. *Eliz.* for that the King is not named in the said statute. *Cro. 18. b. nu. 5.*

“ If an officer take other fees then are allowed and incident to his office, he committeth perjurie. *Cro. 57. b. nu. 7.*

“ A man is attainted of perjurie, the King pardons and restores him, *Quere* if his testimony shall be allowed against a prisoner, for *Once forsworne, ever forlorn.* *Cro. 100. b. Dal. 305.*

Petie-treason.

The wilfull killing or joyning in killing of the husband by the wife, the master or mistress by the servant, the Ordinary by his clerk, is pety treason. 25 *E. 3. c. 2. La. 245, 246. Dal. 236. Cro. 19. b. nu. 1*

The child maliciously killeth the father or mother, it is petie-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said child; but it is petie treason in the said child, in respect of the duty of nature violated. *Dal. 233. Cro. 19. b.* But *Lam.* saith it is not treason in the child, if the father give it not meat nor drink, as to a seryant, *Lam. 245.* and do their business, for

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for it is as a servant. 21 E.3.17. meere formeistre by *Lam.* opinion.

The son or daughter in law, till the father or mother in law with whom they dwell, and doe service, and have meat and drink; it is petie-treason, though such child take no wages; but the indictment shall be by the name of servant. *Dal.* 237.

Judgement in petie-treason is, a man is to be drawn and hanged; if a woman, both in high treason and pety-treason to be drawn and burned. *Lam.* 570. *Dal.* 237.

The forfeiture for petie-treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper fee. *Dal.* 238.

No clergy is allowed in case of petie-treason. *Dal.* 237.

Pewter, *vide* Brasse.

Physician.

One neither Physician nor Chirurgeon taketh upon him to cure a sick or wounded man, who dieth under his hand, it was felony untill 34 H.8.c.8. *Lam.* 240. *Dal.* 243.

But if a smith or other having skill onely in curing and dressing diseases of horses, or other cattell, shall take upon him cutting, or letting blood, or such like cure of a man, who dieth thereof, it seemeth to be felonie. *Dal.* 243.

Pictures

Pictures brought from Rome, *vide*
Agnus Dei.

Playes and Players, *vide* Unlawfull
games, *vide* Rogues.

Plague.

Head-officers and Justices of Peace in a corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or priviledged place, or liberties thereof, for the reasonable reliefe of persons infected, or dwelling in houses infected within the said corporation or priviledged place. 1 *Iac. cap. 31. Lamb.* 337.

Corporation or priviledged place not being able to relieve the persons infected therein, upon certificate of the head-officer or Justices of Peace, or two of them to the two next Justices of the Peace, the said two Justices may assesse and tax the inhabitants of the county within five miles of the corporation at a weekly tax for the relief of them. 1 *Iac. c. 31. Lam.* 337.

There being no Justice of peace in the corporation, or the infection being in a hamlet, the two next Justices of the counie may assesse the inhabitants of the county within five miles of the place infected, for the reasonable reliefe thereof. 1 *Iac. cap. 31. Lam.* 338.

The taxes upon refusall to be raised by warrant of the head-officers or Justices upon the goods of the refuser, or upon default
of

of goods returned, the partie by another warrant to be imprisoned, till he make payment thereof with the arrerages. 1 *Iac. cap. 31.*

Taxes made for the reliefe of places infected, are to be certified at the next Qu. Sessions, and there to be continued, enlarged, or extended to other parts of the Countie, or determined by the greater part of the Justices. 1 *Iac. cap. 31. Lam. 609.*

Taxes levied of the countie for the reliefe of an infected corporation, are to be disposed by the head officer and Justices of the corporation, or two of them; and if there be no Justice, then by the Justices assessors. 1 *Iac. cap. 31.*

Officers negligent in levying of the taxes, lose, 10. shill. to be employed as the taxes. 1 *Iac. c. 31.*

Watchmen not to be impeached for hurting those infectious persons that being commanded to keep in, will in offering to come forth resist the watchmen. 1 *Iac. c. 31.*

Any infectious person commanded to keep in, goeth abroad and keepeth company, having an infectious sore uncured, is felonie without corruption of blood or forfeiture of goods; if without sore, to be punished as a vagabond by 39 *El.* and bound to his good behaviour for a yeare. 1 *Iac. c. 31.*

Officers of a corporation and Just. of the peace in the countie, may respectively appoint, swear, and direct searchers, watchers, and buryers of infected persons and places. 1 *Iac. c. 31. Lam. 197.*

“ One Justice of Peace may command persons dwelling in infected houses to keep in: and, if they goe abroad, violently enforce them. 1 *Nac. c. 31. Lam. 197. Cro. 122. b. nu. 39. Dal. 90.*

Plaints in Court.

One Justice of Peace may upon complaint examine the Sheriffe or Undersheriffe and plantiffe concerning the taking and entring of plaints in their County Court and books against the statute, or any bayliffe of the hundred for not warning the defendant in such a plaint according to his precept from the Sheriffe or Undersheriffe; and if he thereby finde them faulty, that shall stand for a sufficient conviction and attainer without further enquiry or examination, and these examinations the Justice must certifie into the Exchequer within a quarter of a year, on pain of forfeiture of 40. shil. for every default. 11 *H. 7. 15. La. 201. Dalt. 137.*

Sheriffe entring plaints in any mans name that is not present in Court, nor hath any sufficient attorney or depury, loseth 40. shill. *Lam. 431.*

So if he enter more plaints then the plantiffe supposeth he hath cause of action for. 11. *H. 7. c. 15. Lam. 431.*

Pond and Pond-heads, *vide* Fish.

Poysoning, *vide* Murder.

To extoll the power of the Pope by writing, cyphering, printing, preaching, or any speech, open deed or act advisedly holden or stood with to extoll or defend the power of the Bishop of Rome, or of his See heretofore claimed and usurped within this Realm, or to abber, procure, counsell, aid, or comfort such, is treason, for the second offence; for the first offence, *Premunire. Dal. 231. Lam. 411. 5 E.l.c. 1.*

Presentment at the Quarter Sessions for extolling the power of the Pope of Rome, must be certified by the Justices of Peace before whom it was taken into the Kings Bench, within 40. dayes after, if the terme open; if not, then the first day of the next term, or every Just. lose 100. pound. *5 E.l.c. 1.*

Popish books.

Printer, buyer, seller, or bringer from beyond the sea of any Popish Primer, Lady Psalters, &c. in any language, or other superstitious books in English, loseth 40. shil. a book, whereof one part to the King, another to the informer, a third to the poore of the parish where the book shall be found, *3 Jac. c. 5.*

Two Justices of the Peace may search the house or lodging of a Popish Recusant, or whose wife is such, for Popish books and reliques, and finding any unmeet for them to use, must deface and burne them, or being of value deface them and restore them to the owner. *3 Jac. cap. 5.*

Poore

Traveller with wife and children not being a rogue, dyeth or runneth away, the Towne where that happeneth is not bound to keepe them, where they die, nor send them away, but onely in charity, except they become wandring rogues. *Lamb. 208. Resol. 7.*

Parents able to worke are to finde their children by their labour, and not the Parish. *Resol. 8.*

None is to be removed out of the Towne where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Towne except he be impotent. *Resol. 9.*

Persons destitute of houles by expiration of terme, or servants out of service, must provide houses for themselves and services. *Resol. 9. Dal. 99.*

Able bodies yet idle refusing to worke, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of correction, *Ref. 10.* by such a Just of P. as may appoint overseers for the poore. 43 *Elc. 2. La. 209, & 295. Dal. 99.*

Able bodies, yet idle and refusing to work, having any lawfull meanes to live by, are not to be sent to the house of correction. *Ref. 10. Lam. ibid. Dal. 97.*

It is finable to remove or put any out of the parish, who are not to be put out, and such may be sent back. *Resol. 11. Dal. 98.*

None may take reliefe at any mans doore in the parish, but by the appointment of the overseers, nor beg in the high-ways in their parish *Ref. 15.*

Parsons, vicars, farmers, or owners of impropriations

priations, cole-mines, or saleable woods, are to be charged with the reliefe of the poore. *Ref.* 18, 19.

Bishop and his Chancellour and three Just. of P. have power to examine how money for reliefe of the poore appointed by the statute is bestowed, and to call to account the detainers thereof. 14 *Eliz.* c. 5. & 39 *Eliz.* c. 18. *Lam.* 366.

J. of P. proved before the Judges of Assise by two witnesses to be in default about the execution of the statute for the poore, loseth 5. pound. 14 *El.* c. 5. *Lam.* 372.

Parents at the Qu. Sessions appointed to keepe their children, or children their parents, and have not relieved them at their owne charges, lose 20. shill. a moneth. *Lam.* 445. 39 *El.* c. 3, 4.

In disability of the parish or hundred to relieve their poore, the greater part of the Justices at the Qu. Sessions may rate any other parish or hundred thereto. 39 *El.* c. 3. & 43 *El.* c. 2. *Lam.* 611.

Beggars children at the Qu. Sessions may be bound to serve any subject in an honest calling. 14 *El.* c. 5. & 18 *El.* c. 3. *Lam.* 614.

Performance, or not performance of so much of the statute of 14 *El.* c. 5. for the poore as is not altered by 39 *Eliz.* c. 3. or 43 *El.* c. 2. 1 *Iac.* c. 25. is to be yearly examined at Easter Sessions. *Lam.* 620.

Overplus of the stock for maymed souldiers is to be employed by the greater part of the Just. at the Qu. Sessions to such charitable uses as are set downe in the statute for the Poore, except

except by them it be reserved for future pensions. 43 *El.c.3.*

Young children, the parents being dead, are to be set on worke and relieved by the Towne where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal.96.*

The Justices may compell such as be of ability, to take poore children apprentices, and may binde such masters refusing, over to the next gaol-delivery: so said Sir Henry Mountague at Cambridge Assizes 1618. & the statute of 43 *El.c.2.* seemeth to warrant as much, the words whereof are to this effect.

It shall be lawfull for the Churchwardens and Overseers, or the greater part of them, by the assent of two Just. of the P. to binde any such children to be apprentices where they shall see convenient cause, Dal. 93. or the Churchwardens or overseers, with the assent of two such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusall to levy it upon the Just. of Peace his warrant by distresse and sale of the offenders goods. Dal.93.

If the Parents, without good cause shewed, refuse to suffer their children to be apprentices, the Justice may binde them over to answer their contempt; if the child refuse, send him to the house of correction, *quousque, &c. Dal. 93.*

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice. *Dal.96.*

Two Justices of Peace, one being of the
L.3 Quorum,

Quorum, may send to the house of correction or gaole, such as imploy not themselves in work being appointed. 43 *El.c.2.*

Possession actuall and in Law.

If after the death of *A.* another man abateth or entreth into his house forcibly before the heire of *A.* hath gotten any actuall possession indeed, the heire of *A.* shall have no restitution, because he had a possession in law onely. *Lam. 153. Dal. 217.*

Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none. *Lam. 315. Dal. 114. Cro. 62.b. nu. 22. & 64.b. nu. 49.*

Power of the county is raised without knowledge or information of a riot; if when they come they find one, it is lawfull, and they may proceed to punish it. *Lam. 316. Dal. 114. Cro. 62.b. nu. 20.*

Power of the county in suppressing a riot, *vide Riot.*

The Justice of Peace, Sheriffe, or Under-sheriffe, in levying power of the County, may have the aid of all the Knights, and other temporall men under that degree that are above the age of 15. and able to travell, upon paine of imprisonment, fine, and ransome to the King. *Dal. 113. Lam. 315. Cro. 157.b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort

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fort they shall be armed. *Dal.* 113. *Lam.* 315. *Cro.* 64.b.nu.49.

One Just. of P. may take power of the county, to suppress rioters, and need not tarry till his fellowes come. *Cro.* 157.b. *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro.* 158. a. *Lam.* 134.

Sheriffe upon a writ of execution returned that he could not execute it for resistance, and was amerced 20. marks, because he took not the power of the county. *Cro.* 158. a. *Lamb.* 157. *Dal.* 216.

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have three moneths imprisonment. *Lamb.* 416. 1 *M.* c. 3.

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within sixe dayes after another Justice joyning in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three moneths. *Lam.* 195, 333. 1 *Mar.* c. 3.

Quære if all the statute of 1 *Mar.* 3. be not repealed by the generall words at the latter end of the statute 1 *Eliz.* c. 2. *Dalt.* 103, 104.

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Sir *Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

Premunire.

Refusall to take the oath of the Kings supremacy, the first offence is *premunire*, the second treason. 5 *El.c.1. Lam.411. 23 El.c.1.*

To aid, comfort, or maintaine one that hath committed treason in using of bulls, is *premunire*. 23 *El.c.1. Lam.413. Vide* Treason.

To hold, set forth, or defend the power spirituall of any forrein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expresse deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *premunire*, the second treason. 1 *El.c.1. & 5 El.c.1.* enquirable by words of 23 *El.c.1. & Lam.411.*

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the See of Rome, incurreth *premunire*. 13 *El.c.2. & 23 El.c.1. Lam.413.*

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or weare in any wise, or receive them to such intent, and not to apprehend

hend the offender, or within three dayes disclose him to the Ordinary or other Justice of Peace, or within one day deliver the things received to a Just. of Peace. 13 *El. c. 2.* & 23 *El. c. 1. Lam. 414.*

The forfeiture in cases of *Præmunire* upon the statute of 16 *R. 2.* is to forfeit his lands and tenements in fee for ever, his lands in taile for his life, and all his goods and chattels, and to have a perpetuall imprisonment, and to be out of the Kings protection. *Cro. 14. a. Dal. 234, 235.* but *quere* if he be attainted upon 27. of *E. 3. 1.* if he appeare at the day of the *præmunire* returned. *Dal. ibid. Br. Præmunire 6. Co. 11. 34. Instit. 129. & 130. at large.*

A man may not kill him which is attainted in the *præmunire* by 5 *El. c. 1.* but before he might, for they were out of the Kings protection. *Cro. 15. a. b.*

One lawfully imprisoned untill the next Sessions for refusing the oath of allegiance, and there againe refusing it, incurs a *præmunire*, except married women, who are onely to be imprisoned without bayle. 3 *Jac. c. 4.* & 7 *Jac. c. 6.*

Just. of P. not disclosing nor certifying within 14. dayes the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Council, 13 *El. c. 2.* is *præmunire*. *Lam. 195, 372.*

Broakers of bargaines contrary to the statute of 37 *H. 8. c. 9.* provided against usurie, shall be punished as Counsellors, Attorneys or Advocates in case of *præmunire*. 39 *El. c. 18.* 13 *El. c. 8.*

Delivering or sending any reliefe to a Jesuite, Priest, or other remaining in any Colledge of Jesuites, incurreth *præmunire*. 27. *Eliz. cap. 2.*

Presentment.

Presentment is a declaration of the Jurors or Officers without any bill offered before. *Lam. 485.*

It differeth from an endictment, which is the verdict of the Jurors that be charged to enquire of that offence which is offered. *Lamb. 486.*

What shall be a good presentment.

Presentment at a Sessions where the style is in the name of three, and the presentment taken by two. *Lam. 383.*

Presentment where some of the Jurors be allyed or of blood to him that procureth the indictment; but it is no discretion in the Justices to suffer such to be impanelled. *La. 398.*

Presentment of a Jurie of an hundred, of an offence done in another hundred. *Lam. 399.*

“Constable presents a fault at the Sessions
“which belongeth to his office, which is allowed by the Enquest, it is good: otherwise
“it shall not serve for an Endictment. *Cro. 125. b.*

“Constables, Churchwardens, aleconners,
“sides-men, may present all offences contrary
“to 4 *Jac. c. 5.*

Presentment where all were not sworne, if the Record be that all were sworne, *Lam. 399.*
where

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his own knowledge of offences against the statute of 2. & 3. P. & M. c. 8. & 5. E. c. 13. of high-ways. *Dal. 67. Cro. 125. b. 195. a. nu. 5.*

Searchers appointed to examine the true making of tile. *17 Ed. 4. c. 1. Lam. 508.*

Constable for sundry points in the statute of Winchester. *13 Ed. 1. Lam. ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principall and Accessarie, *vide* Accessarie.

Prison.

“Imprisonment, is the putting of a person
“from his liberty unto the custody of the
“Law, to answer to that which shall be ob-
“jected. *Lam. 228. Dal. 343.*

“A man is in prison so long as he is in
“sight of his Gaoler, though he break away.
“*Dal. 276.*

“No man shall commit another to prison,
“except he be a Judge of Record. *Dal. 344.*

“Constable, imprisoning a suspe & for fe-
“lony, may lock the stocks, and put irons on
“him : And in conveying him to the Justice,
“or gaole, may pinion him, or otherwise make
“him

“him sure that he cannot escape. *Dal.* 350.

One committed to prison for refusing to finde sureties for the Peace, shall remaine there till he freely offer and finde them. *La.* 93. *Dal.* 171.

One committed for denying to finde sureties for the Peace, may not be delivered upon the death or release of the party, without help of the Sessions or gaole-delivery. *Lam.* 93. *Quere.*

One was imprisoned till he make fine for that he stood by whilest one was slaine, because he did not his best to attach the murderer. *Lam.* 132.

The Sheriffe or Gaoler may imprison in his house or in the common gaol at pleasure. *Dal.* 347. *Quere.* *Cro.* 169 b. *Lam.* 133.

Constable cannot imprison in his house but in the stocks, and that but untill he may provide convenient aid to convey him to the Just. of Peace or to the Gaole. *Dal.* 348. *Lamb.* 133.

Just. of Peace cannot commit felons to prisons which be not common gaoles, nor make a gaole of their owne houses. *Lam.* 133. 5 *H.* 4. c. 10. *Coo.* 9. 119. b. 23 *H.* 8. c. 2. *Dal.* 347.

Justice of Peace may commit to the stocks some offenders against certaine penall statutes. *Dal.* 347.

Breach of prison is the escape of a felon, though not endicted, out of the gaole, stocks, or possession of any keeper. *Lamb.* 229. *Dal.* 275.

One imprisoned upon a *capias pro fine* is to be

be delivered upon payment thereof. *Lam.* 574
or upon pledges by recognizance for pay-
ment thereof. *Lam. ibid.*

Prisoners.

Every one who is under arrest for felony,
is a prisoner as well without prison as in the
stocks, in the high-way, or in the possession
of him that arrested or hath the keeping of
him. *Dal.* 275, 343.

To break prison is felonie, being commit-
ted for felonie. *Lam.* 228, 424.

"It is no matter whose Prison is broken,
"whether the Kings or other persons, whe-
"ther it be common or private gaole, or the
"Constables house, or others house who
"hath the custody of him for felony. *Dal.*
"275. *Stam.* 31.

Rescous to help a prisoner committed for
felony, to get away, is felony. *Lam.* 229, 424.

If an officer or other whatsoever by his wil-
full default suffer a prisoner to escape, it is
felonie. *Lam.* 229, 424.

Prison-breach is to escape out of the
stocks, or out of any mans possession. *Lam.*
229.

"A Constable voluntarily suffereth a thief
"to drown himselfe; it is felony in the Con-
"stable, *Dal.* 276. but if the thiefe kil, hang,
"or drowne himself, it is a negligent escape.
"*Dal. ibid.*

Prisoner of sufficient ability shall beare
his owne charges, and of them that shall be
appointed to guard him to the gaole, and he
refusing,

refusing, the Constable of the Parish where he dwelleth, by warrant from the Justice that committed him, may levy the same by distresse and sale of his goods after apprizement by foure of the parish, the overplus to be delivered to the owner. 3 *Iac.c. 10.*

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaole borne by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the Inhabitants, and allowed by the Just. of Peace. 3. *Jac.c. 10.*

Any lawfully taxed for the charge of bringing a prisoner to the gaole, and refusing to pay it to the Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levie the same by distresse, and (after apprizement by foure of the parish) sale of the goods, giving the owner the overplus. 3 *Iac.c. 10.*

Defendant in any action for a distresse taken by force of the statute of 3 *Jac.c. 10.* may plead not guilty, and give the speciall matter in evidence, and upon recovery or nonsuit shall have treble damages. 3 *Jac.c. 10.*

Prisoners discharged by Justices of Peace who take the endictment to be void, may be stayed if they change their opinion before judgement. *Lam. 540.*

“ A man outlawed for felony is imprisoned amongst traitors, and breaking prison
 “ setteth them loose, this is rescous of a traitor,
 “ tor, and treason. *Cro. 35 a. nu. 5, 6.*

Privie

Privie Sessions, *vide* Sessions.

Processe.

Processe hath the name because it proceedeth or goeth out upon former matter either originall or judicall. *Lam. 519.*

Suggestions and informations, whether by word or writing, are but to stir up the Justices to commend the cause to the Inquest, and not to award processe upon them, *Lam. 509.* unlesse it be in certaine causes where it is especially given them by statute. *ibid.*

Authority to make processe upon endictments is given to the Justices by words of their commission, or by implication where the power of hearing and determining is given by their commission. *Lam. 520.*

• Proces ought alwayes to be in name of
• the King with *Non omittas*; &c. with *Teste*
• of any two Just. under their hands sitting
• in Court. *Lam. 520. Dal. 412.*

No processe, plea, or suit, is to be discontinued by making a new commission of the Peace. 11 H.6.c.6. & 1 Ed.6.c.7. *Lam. 520.* See the end of 1 E.6.c.7.

Processe upon all endictments of trespassse against the Peace or upon speciall statute is *Venire facias*; and if he be thereupon returned sufficient, then a *Distringas infinite*; if he be returned *Nihil habet*, then *Capias alias*, pluries, *Exigent*. *Lamb. 522, 523. Dalt. 412.*

Processe upon the statute of unlawfull games, liveries, maintenance, archerie, &c.
Venire

Venire facias, Capias, Exigent. 33 H.8.c.10.
Quere if it be not repealed by 37 H.8.c.7.
Lam. 523.

Processe upon the statute of victuals, attachments, *Capias, exigent.* *Lam.* 523, 524.

Processe upon depraving the Sacrament is two *Capias, Exigent, Capias utlagatum*, and may be sent by any three Justices into any shire, one being of the *Quorum.* *Lam.* 524.

Just. of Peace may award processe into a forrein county against an accountant for money levied for making a gaole. 25 H.8.c.5.
 5 *El.c.* 24. *Lam.* 525.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriffe of the shire whereinto he departed, returnable before themselves. 5 *El.c.* 4. So where a decayed bridge is in one county, and the party or land chargeable doe lie in another county. *Lam.* 525. 22 H.8.c.5.

One indicted of treason or trespassse in one county, is imprisoned in another; the Justices may award *Habeas corpus* to remove him before themselves. *Lam.* 526.

Processe upon indictment of felony may be sent into any forrein county. 5 *E.3.c.* 11. *Lam.* 527.

Processe upon indictment of felony is two *Capias* and an *Exigent.* 23 *E.3.c.* 14. *Lam.* 528.

Indictment of treason, felony, or trespassse in one county nameth the indicted to be of another, the first processe shall goe into the county where he is indicted, the second to the county where he is named, to be returnable
 three

three moneths after ; and if he be not to be found there, then that Sheriffe to make Proclamation at two County Courts before the returne that he appeare before the Justices of the County where the indictment is at the day in the *Capias* ; and if he appeare not, an *Exigent* to be awarded. 8 H.6.c.10. *Lamb.* 525, 526.

The two Justices of the Peace which have the oversight of the sheriffs books and of the amerciaments, upon suggestion may make processe as in an action of trespassse against the offenders of that statute to answer before them. 11 H.7.c.15. *Lam.* 360.

No processe is to be awarded by the Justices after outlawry, but they are to certifie the outlawry into the Kings Bench. *Lam.* 521, 522.

Processe upon informations must be such as the statute whereupon they are grounded doe appoint. *Lam.* 528.

The Sheriffe or his minister that hath arrested, or caused any fine, ransome, or amerciament to be levied by reason of indictment or presentment at the Sheriffes turn or law-day without processe from the Justices, loseth 40. pound. 1 E.4.c.2. *Lam.* 431, 521.

Informations made in the Sessions that an alehouse-keeper hath done anything whereby he hath forfeited his recognizance, the Justices of P. may award processe against him, to shew cause why he should not forfeit his recognizance, *Lam.* 524. but *quare* what processe. *Lam.* 524.

; Processe

Processe cannot be awarded by the Justices of Peace upon any forfeited recognizance, except alehouses, but they must certifie them to the higher Courts. *Lam. ibid.*

Proclamation.

Justices of Peace cannot acquit felons by Proclamation, or without sufficient acquittal; and if they cannot endict them, they must remaine till the gaole-delivery. *Lam. 549, 550.*

The forme of Proclamations to remove a force upon a writ upon the statute of *Northampton*, vide *Lam. 168, 169. Dal. 61, 62.*

Constable, if any affray be dangerous, may make Proclamation. *Lam. 132. Dalt. 33. maketh a quere.*

One Justice of Peace may make a Proclamation in the Kings name to stay a riot. *La. 183. Quere*, for the statutes 1 *M. 12. 1 El. c. 19.* are expired.

Justices of Peace at every Sessions use to make proclamation, that if any will informe for the King, he shall be heard. *Lam. 520.*

Proclamation annexed to the statute of 4 *H. 7. c. 12.* is to be read every *Q. Sessions*, or every Justice present loseth 20. shill. 4 *H. 7. 12. Lam. 633. Quere* if of force now.

Promoters, vide Informers.

Prophefying.

Prophefier with intent to make rebellion, dis-

diffention, losse of life, or other disturbance in the Realme, being convicted thereof before the Justices of Peace, shal be imprisoned one yeare without bayle for the first offence, and forfeit also ten pound ; for the second offence imprisoned all his life, and lose all his goods and chattels reall and personall, and to be impeached within six moneths. *5 E. 6. 15. Lamb. 415, 416.*

Purveyors.

If purveyors, caterers, or servants of any man but the King, take any thing without the owners will, or as they can agree and make present payment, it is felony. *Lam. 231. Dal. 282. Cro. 48.a.*

Purveyour shall not take cart or other provision of any Prelate or Clerk.

Purveyour, his deputy, undertaker, or servant, maketh purveyance without warrant, of any thing above 12. pence, without consent of the owner, it is felony. *2. & 3. P. & M. c. 6. Lam. 422. Dal. 286. Cro. 48.a.*

Purveyour taking any carriage in other manner then is comprised in his commission, it is felony. *36 Ed. 3. cap. 2. Lamb. 423. Dal. 286.*

Or any purveyance without commission under the great Scale, *Dal. ibid. Cro. 48.b.* it is felony.

Or make purveyance of goods above 12. pence, without testimony and apprizement of the Constable and foure honest men of the town, and without delivering tales or Indentures

tures under his scale testifying his purvey-
ance, it is felony. *Lam.* 423. *Dal.* 286.

Quere if it be but of the value of 40. shill.
or under. *Quere* by whom the apprizement
shall be made, and betweene whom the In-
dentures shall be made. *Dal.* 287.

To take more victuals or carriages for the
Kings house, then he shall deliver to the
same house, is felony. *Dal.* 287.

To take sheep in their wools betwixt Ea-
ster and Midsummer at small prices, and to
carry them to his owne house to shear them,
Lamb. 423. *Dal.* 286. 23 *E.* 3. *cap.* 15. is fe-
lonie.

Quere if the felony of purveyours by 36
E. 3. 6. be not altered by 23 *H.* 6. 1. & 2.

Purveyour taking any thing of the value of
40. shillings or under, without present pay-
ment, loseth double the value of the thing ta-
ken; and the Constable upon request made,
not aiding him to resist the Purveyour so ta-
king, loseth double damages.

And any of the Kings officers procuring
any to be arrested or vexed for such resi-
stance, loseth 20. pound. 20 *H.* 6. c. 8. & 23 *H.*
6. c. 2. *Lam.* 438.

Purveyour taking any thing of any man
to spare him, is to be imprisoned two years,
pay treble damages, and ransome. *Lam.* 439.

Purveyour taking corne by other measure
then the stricken bushell, or by any more
then eight such bushels to the quarter, and
that hath taken carriages therefore without
making ready payment, is to be imprisoned
one yeare, and pay 5. pound unto the King,
and

and 5. pound unto the party. 25 E.3. cap.1.
36 E.3.c.3. & 1 H.3.c.10. Lam.439.

Purveyour of timber or his deputy, causing any timber to be felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40. shill. for every tree. Lam.438,439. 1 Jac.6.22.

Dockets of Purveyours ought to be delivered over to the Justices of Peace at the next generall Sessions, and by the Justices to be certified to the Treasurer of the Kings household. 2.& 3.P.&M.c.6. Lam.614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not as a felon. Dal.287.

Undertakers, deputies, servants, and all other which under colour of the Kings Commission to the Kings Purveyors, do take any victuals against the statute, are liable to the pains therein mentioned against purveyors. 2.& 3.P.&M.c.6. Cro.48.b.

Just. of Peace are to certifie to the Treasurer of the Kings household the dockets of purveyours (brought to their Sessions by Constables) that the serving of such Commissions, and the true answering of purveyances may be better examined thereby. Lam.590
2.& 3.P.&M.c.6.

Putting

238 Putting out of eyes.

Upon malice prepenſed to put out any ones eyes, is felony. 5 *H.4.c.5. Cro.49 a. Lam.256, 420. Dal.280.*

Quarter Sessions, *vide* Sessions.

Rape, or Ravishment.

DEflowring of a maid, under ten yeares old, with, or without conſent, is felonie without clergie. 18 *El.c.6. Lam.256, 421. Dal.290. Cro.47.b.*

Raviſhing of a woman againſt her will, without conſent either before or after the fact, or being with force, though after ſhe doe conſent, is felonie without clergie. *weſt. 2.c.34. 18 El.c.6. Lam.256, 241. Cro.47.b. Dal.290.*

To be preſent and aiding the raviſher, is rape. *Lam.258. Cro.47.b. Stam.24. Dal.290.*

No rape where the party deflowred conceiveth with child. *Lam.257. Dal.289. Cro.47.b. Stam.24.*

Deflowring of one kept as the deflowrers concubine, is a good plea upon an appeale that it is no rape; otherwiſe of another mans concubine. *Lam.257. Cro.47.b. Stam.24. Dal.290.*

Force without carnall knowledge is no rape. *Lam.257, 258.*

See the ſtat. *de Officio Coronatorii* made 4 *E.1.*
Com-

Rape and Ravishment. 239

Complaint must be made within 40. daies, but otherwise in an appeale.

A woman that is ravished ought presently to levie hue and cry, and to complain thereof presently to some credible persons. *Dalt.* 289. *Cro.* 100. a. *Stam.* 22. in indictment of rape, no time to be observed.

To ravish a woman who consenteth for fear of death, &c. is ravishment; for consent ought to be voluntary and free. *Dal.* 290. *Cro.* 48. a.

“ Consenting after rape doth not hinder,
“ but that the husband, and if she have no
“ husband, the father or next of blood may
“ pursue the ravisher, to have him convicted.
“ P. R. 133.

Rates, *vide* Taxations.

Rebellious assemblies.

The statutes 1 M. 12. and 1 Eliz. are discontinued. *Dal.* 222.

Recognisance.

Recognisance is a bond of record testifying the recogniser to owe a certaine summe of money to some other, and the acknowledgement of the same is to remaine of record, and none can take it but onely a Judge or officer of record. *Dal.* 334.

Every recognisance taken by a Justice of Peace, must be made by these words *Domino Regi*, upon pain of imprisonment of any person that shall take it otherwise. 33 H. 8. c. 39.
Cro.

Cra. 196. b. nu. 11. Lam. 162. Dal. 175, 379.

Sureties in recognisances ought to be Subsidie men, and they must be two besides the party himselfe. *Lam. 101. Dal. 175.*

It is in the discretion of a Justice of Peace, if he take a recognisance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the summe of money, and how long he shall be bound. *Dal. 174. Lam. 100.*

If a Justice of Peace be deceived in the ability of the sureties, he may compell the party to put in another. *Lam. 100. Dal. 178.*

Recognisance of the Peace, without expressing in the condition that it was for keeping of the Peace, seemeth void. *Lamb. 103. Dal. 175.*

So it is if a recognisance be that a recogniser shall not maim or bear *A.* without expressing keeping the Peace. *Lamb. 103. Dal. 175.*

Recognisance comprehending no time of appearance, but generally to keep the peace, is good. *Lam. 103. Dal. 176.*

Recognisance for the peace upon a *supplicavit*, is not of necessity to be returned until *certiorari*. *Lam. 109. Dal. 177.*

Recognisance taken to keep the peace against one especially, *quare* if it be good. *La. 104. Dal. 176.*

“ Recognisance taken to be levied onely
“ of the goods or onely of the lands of the
“ cogniser, seemeth to be good enough. *Lam.*
“ *104. Dal. 167.*

“ Wife or infant under the age of discre-
“ tion

tion are to be bound to the Peace by their sureties only. *Lam. 101.*

Recognisance taken *ex officio*, if default of appearance be made; may be removed by *Certiorari*. *Lam. 109. Dal. 178.*

Recognisance not forfeited is discharged by the death of the King, of the cognizer or the party suing for it, if it were against him alone. *Lam. 113. Dal. 141.*

The sureties dying, the recognisance is good against the executors. *Lam. 113. Dal. 141.*

Recognisances taken are to be certified notwithstanding the death of the King, *Lam. 113.* or of the recognizer, or of the party at whose suit it was granted. *Lam. 113.*

The Recognisance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison. *Lamb. 114. Dal. 163.*

Recognisance of the Peace brought into the *Custos Rotulorum* and not pursued by the party, may be called upon for the King by the Clerk of the Peace. *ibid.*

Justices of the Peace cannot award pro-
cesse upon a forfeited recognisance, but it
must be certified into the higher Court, ex-
cept recognisance for alehouses. *Lamb. 589.*
Dal. 177. Cro. 167. a. & 196. b. nu. 9. and the
cause of the forfeiture. *Dal. 177.*

Recognisances or examinations taken con-
cerning suspects or felons, are to be certifi-
ed at the next generall gaole delivery. 2. &
3. P. & M. c. 10. *Lam. 212.*

Recognisances taken by a Justice of Peace

ex officio, are to be brought into the *Custos Rotulorum* at the next generall Sessions, *Lamb.* 109. *Dal.* 177. *Cro.* 139. *a.* but no paine by the statute of 3 *Hen.* 7. 1. if he doe not. *Br.* Peace 11.

None but the King can pardon a recognisance once forfeited. *Lamb.* 111. *Cro.* 140. *b.* *Da.* 181.

☛ Recognisance taken where the Just. hath
☛ no authority, is void. And taken by au-
☛ thority, if the Justice insert other matter,
☛ it is void. *Cro.* 196. *b.* nu. 7.

☛ A recognisance taken by a Just. of P. is
☛ a matter of record so soone as it is taken
☛ and acknowledged, although it be not
☛ made up, but entred into his booke, nay,
☛ although it be not entred. *Dal.* 336. *Stam.*
☛ 77. *b.* *E. Brook Record* 58.

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalfe. *Lam.* 63.

If a record say any thing, no man shall be received to averre or speak against it. *Lam.* 63.

The Judges may correct or amend any record in the term wherein the record is to be made, but after they have no power at all over them. *Lam.* 64.

The record or testimony of a Justice of Peace is in some cases of greater force then

an endictment of a Jury, and against it the party shall not be admitted to traverse.
Lam. 65.

Embezelling of a record is felony, but not to be dealt withall by Justices of Peace.
Lam. 231, 549.

Precepts for suretie of the Peace, speciall records for conviction of forcible entries made out of the Sessions, are not records of Sessions. *Lam. 389.*

Records of causes determinable at the Sessions taken by the Justices of Assize at their gaole-delivery as Justices of Peace, are to be left with the Clerk of the Peace to be brought to the next Sessions of the Peace.
Lam. 391.

One pleadeth a record before other Justices by way of justification, the Justices ought to give him day to bring in the record.
Lam. 555.

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilfull raising of an endictment, or maliciously enrolling that for an endictment, which was not found, or changing an indictment of trespassse into an indictment of felonie, loseth his office, and shall be fined and imprisoned according to his offence.
Lam. 631.

“To raise a record is felonie; yet if a Judge doe embezell or raise a record, it is but misprision in a Judge. *Dal. 283. Br. Con. 174. & Treason 31.*

“Embezelling of any record, writ return, pannell, processe, or warrant of Attorney

“in Chancery, Kings Bench, Exchequer,
 “Common pleas, or Treasurie, is felony in
 “the parties, their counsellors, procurers, or
 “abettors. *Dal. ibid.*

“But it seemeth that Iustices of Peace have
 “not to doe with these felonies. *Lam. 549. Cro.*
 “56. & *H. 6. c. 12. Dal. 283.* for that these re-
 “cords doe not remaine with the Iustices of
 “Peace. *Cro. ibid.*

Recusants.

Wilfully absenting themselves from Church
 12. moneths, contrary to 1 *El. c. 2.* and convic-
 ted, being of 16. yeares of age, are to be
 bound to the good behaviour, upon certifi-
 cate of one Justice of Peace to the Kings
 Bench, 1 *Eliz. 2.* besides other penalties. 23.
Eliz. Dal. 104.

Every Justice of Peace may give notice to
 any person to forbear to receive or keepe
 such as shall obstinately refuse to come to
 the Church by the space of a moneth toge-
 ther. 35 *El. c. 1.*

Heire of a Recusant being a Recusant at
 his Ancestours death, conforming himselfe,
 and taking the oath of supremacie made 1.
Eliz. before the Archbishop or Bishop of
 the Diocesse, shall be free from penalties
 for the recusancie of his ancestour. 1 *Jac. c. 4.*

Heire of a Recusant being under 16. years
 at the death of his ancestour, at or after 16.
 years becomes a Recusant, he is not to be
 freed of his ancestours penalties for recu-
 sancie, till conformity as aforesaid. 1 *Jac. c. 4.*

Two parts of Popish Recusants lands being seised for payment of 20 pound a month, the third is not to be charged with it, but is to descend to his heire, and the two parts to remaine in the Kings hands till he be satisfied thereof both for the ancestour and heire.

1 *Jac. cap. 4.*

Any sending his children beyond the seas out of the Kings dominions to any religious house, to be instructed or strengthened in Poperie, loseth 100. pounds, and the person so going, or being there, and not returning within one yeare, and submit, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, til conformity. 1 *Jac. c. 4.*

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void. 1 *Jac. c. 4.*

• J. of P. not certifying at the next Qu.
• Sessions the oathes taken, of any reconciled to the See of Rome, upon his submission, returning into the Realme, doth forfeit
• 40. pounds. 3 *Jac. c. 5. Lamb. 633.*

Forfeitures upon the Statute of 1 *Jac. c. 4.* against Popish Recusants, halfe to the King, and half to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Jac. c. 4.*

Popish Recusant conforming himselfe in comming to Church according to the law, and after is convicted for not receiving the Sacrament once every yeare, loseth for the first yeare 20. pound, for the second yeare 40. pound, for the third yeare 60. pound:

And if after conformity in receiving the Sacrament, he offend therein, he loseth for every offence 60. pound, one moiety to the King, the other to the Informer, to be recovered in any of the Kings courts at Westminster or before the Judges of Assize, or Justices of the Peace at their Qu. Sessions by action of debt, &c. 3 *Iac.c.4. Lam.418.*

Constables and Churchwardens, or for want of them, the high Constable once every yeare, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above 9. yeares old, or lose 20. shillings for every offence, and upon their conviction to have 40. shillings out of their goods. 3 *Iac.cap.4. Lam.616.*

Clerk of the Peace is to record the Presentment of Constables and Churchwardens for monethly absence from Church, without fee, or loseth 40. shill. 3 *Iac.c.4.*

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Justices of Peace at their Qu. Sessions, as Justices of Assize might before. 3 *Iac.c.4. Lam.617.*

Upon an indictment for not comming to Church, or not receiving the Sacrament, Justices of the Peace at their Qu. Sessions may by proclamation command the indicted to render his body to the Sheriffe before the next Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction. 3 *Iac.c.4. Lam.616.*

Popish Recusant convicted of not comming

ming to Church according to law, shall in Easter or Michaelmas term next after the conviction, pay into his Majest. receit after the rate of 20. pound a moneth, and so to continue without any other indictment, till he conforme himselfe, and in default of payment, all his goods, and two parts of his lands to be seized til conformity, leaving the mansion house to the third part. 3 *Iac.c.4.*

The King seizing two parts may not let it to any Recusant nor for their use, and the lessee must give security to the King, not to commit waste. 3 *Iac.cap.4.*

Indictments against Popish Recusants are not to be avoided for want of forme untill conformity. 3 *Iac.cap.4.*

Justices of Peace may hear and determine all offencees against the statute 3 *Jac.cap.4.* except treason. 3 *Jac.c.4. Lam.617.*

Attainder of felony upon the statute of 3 *Jac.c.4.* of Popish Recusants, barreth not dower, nor corrupteth blood. 3 *Jac.c.4.*

Any pursued for doing any thing warranted by the statute of 3 *Jac.c.4.* may plead the generall issue, and give the speciall matter in evidence. 3 *Jac.c.4.*

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 *Jac.c.4.* for not receiving the Sacrament, nor the wife after his death.

Popish Recusant convict, comming to the Court where the King or his heire apparent is, without the Kings command, or warrant in writing from the Counsel, loseth 100.l. 3 *Ia.c.5.* the one halfe to the prosecutor.

Recusants convicted or other forbearing for three moneths to heare divine service, now dwelling in London or within 10. miles (except tradesmen having no other dwelling) are to depart within 40. dayes, and if they come to dwell there within 3. moneths, then to depart within 10. dayes after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100. pound, 3 *Jac. c. 5.* the moiety to the prosecutor.

Every one not repairing every Sunday to some usuall place appointed for Common prayer, there to heare divine service, upon conviction within one moneth after default, upon confession, or oath of one witness, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levie 12. pence for every default by distresse and sale of the offenders goods; and in default of distresse the Justice may commit him till he pay it, which is to be employed for the poor. 3 *Jac. c. 4. Dal. 105. Coke 11. 61. b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retaine in their service any absenting themselves a moneth together from Church without reasonable excuse, lose 10. pound a moneth. 3 *Jac. c. 4.*

The King or five Lords of the privy Counsel may by writing under the hands of the privie Counsel license a Popish Recusant

sant confined five miles, to travell out of his compasse for such time as is contained in the license, without inserting any cause. 3 *Jac. cap. 5.*

Popish Recusant confined to five miles, informing upon oath foure Justices of Peace that he hath necessary occasion to travell farther, and that he will make no causelesse staves, they with the assent of the Bishop of the Diocesse, Lieutenant or his Deputy under their hands and seales, and specifying in their license the cause and time of travell, may by license under their hands and seales give liberty to him to travell forth of his compasse, all other licenses to be void; and any travelling without such license, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35 *Eliz. c. 2.* 3 *Jac. c. 5.* *Dal. 109. Lam. 365.* and any one of the foure Justices may minister the oath, 3 *Jac. c. 5. Lam. 296.*

Statute 35 *El. c. 2.* confining Popish Recusants to certaine limits is hereby confirmed, and the proviso for licensing them to goe beyond their limits is hereby repealed. 3 *Jac. cap. 5.*

Popish Recusants convicted, are not to practise the common or civill law, nor physick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or officer in any Court, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle or fortresse of the Kings, on paine of 100. pound, one moiety to the King, the

other to him that will sue. 3 *Jac.c.5.*

Popish Recusant convicted, or whose wife is a Popish recusant, during recusancie not to execute any publike office or charge in the Realme. 3 *Jac.c.5.*

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her selfe according to law, forfeiteth to the King two parts of her dower or joynture, and is disabled to be executrix or administratrix to her Husband. 3 *Jac.c.5.*

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King. 3 *Jac.c.5.*

Recusant convicted, married otherwise then by a Minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by courtesie, or in dower, or by joynture, or to have widowes estate, or frankbanke, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100. pound, one moiety to the King, the other to him that will sue. 3 *Jac.c.5.*

Child of a Popish Recusant, not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King, another to the poore of the parish, and the third to him that will sue. 3 *Jac.c.5.*

Popish Recusant not excommunicated, buried otherwise then according to the orders

ders of the Church, his executors or administrators knowing it or causers of it, lose 20. pound, one third part to the King, one third part to the poore of the parish, and one third part to him that will sue for it. 3 *Jac.c.5.*

Popish Recusant convicted, during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spirituall living, the same to remaine to the Chancellors of the Universities of Oxford and Cambridge, according to the severall shires limited in that statute, so that they present none having a former benefice with cure; if they doe, the same to be void. 3 *Jac.c.5.*

Penalties upon the statute of 3 *Jac.c.5.* against Recusants to be recovered in any his Majesties Courts of Record by action of debt, bill, plaint, or information, without essoine, protection, or wager of law. 3 *Jac. cap.5.*

Married woman under Baronesse, convicted of not comming to Church, and of not receiving the Communion, who doth not within three moneths after conforme her selfe, to be committed by two Justices of the Peace, one being of the Quorum, untill conformity, unlesse her husband pay 10. pound a moneth to the King, or the third part of his lands. 7 *Jac.c.6.*

The penalty of 12. pence, and of 20. l. a moneth shall be both of them paid by a Recusant convict. *Dal. 106. Co. 11.63.b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repairth

paireth not to the place of his dwelling, or place of his birth, there to notifie himselfe to the Minister and Constables according to the statute of 35 *Eliz.* or afterwards remove 5. miles from the same, (if upon apprehension he conform not himselfe within three monerhs) to abjure the realme, and assigne him his time and haven. 35 *El.c.2.* *Dal.109.*

The forme of the Oath.

You shall sweare you shall depart this Realm of England, and all other his Majesties dominions, and that you shall not returne hither or come againe into any of his Majesties dominions without license of our Sovereaign Lord the King, or of his heires ; so help you God. Dal.109. Stam. 119.

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed goe to such haven and depart, or after such abjuration returneth without his Majesties speciall license, in every such case shall be adjudged a felon. 35 *El.c.2.* *Dal.109. Lam.419. 1 Jac.c.25.*

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred of record before them, and certifie it at the next generall gaol-delivery in the said county. *ibid.*

The Bishop of the diocesse or any one Just. of Peace, or Minister of the parish where such convicted Recusant shall be, may require his submission. *ibid.*

Justices of Peace at their Quarter Sessions may require, heare and determine of all
Re-

Recusants both for not comming to Church, and not receiving the Sacrament according to law, as Just. of Assize and gaol-delivery may doe, and at the Sessions (in which such indictment shall be taken) make proclamation to render their bodies to the Sheriffe, and before the next Quarter Sessions, at which if the offender make not appearance of record, it shall be a conviction. 3 *Iac. cap. 4. Lam. 616.*

“ Popish Recusant convicted is disabled
 “ to be executor, administrator, or guardian:
 “ the guardianship to goe to the next
 “ of kin to whom the land should not come,
 “ being no Recusant; and he to accompt to
 “ the heire, as the case shall require. 3 *Iac. cap. 5.*

“ Recusants armour, gunpowder and munition by warrant of foure Just. of P. in their generall Sessions shall be taken from them, (other then necessary weapons allowed by the said Justices for their defence) and kept at the Recusants costs, where the Justices shall appoint. And the Recusant, refusing to tell what armour he hath, or disturbing the delivery thereof, forfeireth the armour, and is to be imprisoned for 3. moneths without bayle. 3 *Iac. c. 5. Lam. 617, 618.*

Regrator.

Regrator is he that buyeth live or dead victuals, tallow, or candles in the market, and selleth the same there, or within 4. miles. 13 *El. c. 25. Lam. 450. 5. Ed. 6. c. 14. 5 El. c. 12. Release.*

Justice of Peace compelleth one of his owne motion to give surety of the Peace untill a certaine day, he may by like discretion release it before the day. *Lam. 110. Cro. 139.b. nu. 16. Dal. 179.*

Party bound generally to keepe the Peace without any day limited, it is for life, and no man can release it. *Lam. 110. Dal. 179. Cro. 142.b. Brook Peace 17.*

Recognisance is taken at the suit of *A.* to keep the Peace against him onely, *A.* may release it before the same Justice or any other that will certifie it. *Lam. 110. Dal. 179. Cro. 139.b. nu. 10. 169.a.* That release being certified at the next Quarter Sessions will discharge the party bound of his appearance, so that he shall not be called upon for his recognisance. *Dal. ibid. Cro. 139.b. nu. 15.*

Recognisance is taken *versus cunctum populum, præcipuè versus A.* yet *A.* may release it before any Justice: *tamen quere, Lam. 110. Cro. 142.b. Bro. Peace 17. Dalt. 180.*

Recognisance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture. *Lam. 111. Cro. 140.b. 141.a. Dal. 180.*

The Peace being released, the recognisance must not be cancelled, but certified at the Sessions with the release, lest peradventure the Peace was broken before the release made. *Lam. 111. Dal. ibid. Cro. 139.b. nu. 16. 169.1.*

Whether the good abearing taken upon complaint may be released by any speciall person. *Quere Lamb. 123. Dal. 197.*

Nei-

Neither the Justice of the peace, nor the party can discharge a recognisance of the Peace by the release out of the Sessions; for first the recognisance is made to the King, and therefore none but the King can release or discharge it. Secondly, the recognisance is taken for the parties appearance, and the release cannot discharge the appearance. *Dal.* 180. *Brook Peace* 17.

The appearance is requisite, notwithstanding any release made; first, for the safety of the recognisance; secondly, that others may object in open Sessions, if he have broken the Peace, that he may be indicted thereupon. *Dal.* 180.

E contra Cro. If the Justice of Peace at the Sessions doe certifie the release, by this the obliged is discharged, and shall not be called upon for his recognisance, nor his default recorded; for the principall cause of the recognisance was the keeping of the Peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessory to the same, and the intent is onely that then he should finde new surety if the party will not release; and this is the common usage. *Cro.* 139. nu. 15.

Vide plus Recognisance, & Forfeiture.

Religious houses.

The owner of the site of a religious house dissolved, in yearly value under 200. pound, must keepe a continuall house there, or lose

256 Religious houses.

20. nobles a moneth, to be enquired of and determined at the Quarter Sessions. 27 H.8. c.22. 5 El.c.2. Lam.471.

Replevin, *vide* Bailment.

Rescous of a Felon.

Rescous is to help a prisoner to get away; and if it be a felon, it is felony. *Lamb.* 229. *Dal.* 274, 275.

Rescous of a felon before arrest, is no felony, otherwise after arrest. *Lam.* 230. *Dal.* 276. *Quere Stam.* 31.

Rescuing a prisoner going to the gallows, is felony. *Dal.* 276.

A warrant being granted by a Justice of the peace for unlawfull hunting of Deere or Conies, to make rescous thereupon, is felony. *Dal.* 75.

Rescous against an officer or person authorized to execute the statute of 39 El.c.4. loseth 5. pound, and is to be bound to his good behaviour. *Dal.* 128.

“ If a stranger take one out of prison with the prisoners assent, if he be in for felony, it is felony by the common law in the rescuer, and he is a principall by the statute *De prisonam frangentibus. Cro.* 38.a.nu.2.

“ One is in the stocks for suspicion of felony, and is let out by a stranger; it is felony, although the party who escaped, is not indicted. *Cro.* 35.a.nu.3.

Resti-

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None shall have restitution but such as are put out of house or land. *Dal.* 214. *Cro.* 162. *b.* *Lam.* 153.

If it be found upon enquiry that any have entered or held with force, contrary to the statute 8 H. 6. c. 9. the Justice of peace may reſeiſe and put the party ſo put out in full poſſeſſion. *Cro.* 161. *b.* *Dal.* 214. but the putting out muſt firſt be found. *La.* 152. *Cro.* *ibid.*

The Justice of peace needeth not to ſtay or ſtand upon the right or title of either party. *Dal.* 214. *Cro.* 164. *a.*

No reſtitution is to be made where there was onely a poſſeſſion in law. *Lam.* 153. *Dal.* 217.

In a reſtitution it is not enough that the putting out be found, unleſſe the indictment doe alſo containe in it *adhuc extra tenet*. *Dal.* 214. *Cro.* 163. *b.* *Lam.* 153.

Reſtitution ought to be made to none other then the party put out. *Dal.* 214. *Cro.* 162. *b.* *Lam.* 153.

After the entering or detaining with force found, the Justice of peace may by himſelfe or precept to the Sheriffe under the teſt. of himſelf alone reſtore the party grieved to his poſſeſſion. *Dal.* 216. *Lam.* 156.

None can make reſtitution but they before whom the indictment is found, but the Juſtices of the Kings Bench, either upon certificate made by the J. of P. before whom it was found, of the preſentment, or if the ſaid preſentment or indictment be removed by *Certiorari*. *Dal.* 216. *Lam.* 157, 158.

If the Sheriffe returne upon a precept or writ

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writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the county. *Dal.* 216. *Lam.* 158. *Cro.* 163. b.

Justice of peace before whom the presentment was made, dyeth before restitution; *quare*, whether the Justices at the Sessions can award it. *Lam.* 157.

Justices of peace ought not to award restitution where the indictment is insufficient in law, either in matter or forme. *Dalt.* 215.

In the indictment, 1. not onely an entry must be, but also a putting out: 2. the indictment must expresse the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say, *Et adhuc extra tenent*: 4. *Expulerunt & adhuc extra tenent*: 5. one of these two words, *manu forti*, or *cum multitudine*. *Dalt.* 214, 215. *Cro.* 169. b. 163. b. *Lam.* 153.

If error or insufficiency be in the indictment taken before Justices of peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *supersedeas* if the Sheriffe have not made restitution before. *Dal.* 215. *Cro.* 162. a.

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Just. of peace. *Dal.* 215. *Cro.* 168. a.

Causes to stay restitution.

1. No restitution upon an indictment to be

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be made, if the party indicted hath had the occupation or been in quiet possession three years together next before the day of the indictment found, and his estate not ended, which the party may alledge for stay of restitution, untill it be tryed, if the other will traverse or deny the same. 31 *Eliz. cap. 11. Dal. 219.*

2. *Certiorari.*

3. A traverse : *quære Lam. 158.*

4. Insufficiency of the indictment.

5. Insufficiency of the Jurors not having 40. shill. land by the year. *Dal. 218. Lam. 152. Cro. 165. b. Quære.*

Justice of peace, upon indictment found, may give restitution as formerly to freeholders, to tenants for yeares by copy of court, guardians in Knights service, tenants by *elegit*, *stat. Merchants or staple. Dal. 207. 21 Jac. 6. 15.*

“ The disseisee outeth the disseisor by force, the disseisor shall be restored. *Lam. 148. Dal. 217.*

“ Upon traverse the Justice may stay restitution. *Dal. ibid.*

“ The disseisee entreth peaceably, and keepeth out the disseisor by force ; the disseisor shall not be restored, because the disseisor had the younger title. But the disseisee shall be imprisoned and fined because he held with force. *Cro. 162. b. & 164. b. Dal. 217.*

“ The disseisee entreth quietly upon the disseisor, and so abide together divers dayes, and then the disseisee putteth out
“ the

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“the disseisor by force, the disseisor shall
“not be restored. *Dal. 217. Cro. 163. ab.*

“Wife, children, and servants do preserve
“a possession, but cattle on the ground doe
“not. *Dal. ibid. Cro. 164. b.*

“Two are in possession by severall titles
“in one house, the law judgeth him in pos-
“session who hath the best right to the pos-
“session: As *A.* enters wrongfully upon *B.*
“and both doe continue in the house; af-
“terwards *B.* puts out *A.* with force; *A.*
“shall not be restored, for *A.* never gained
“possession by his entry. *Dalt. 217. Cro.*
“*163. b.*

“Two are joyntenants or tenants in com-
“mon, whereof one forcibly putteth the o-
“ther out of possession: *Quere* what a Just.
“of peace may doe therein for that his entry
“and possession is lawfull. *Dal. 217. Pax re-*
“*gis 39.*

Restitution of stolne goods.

He that hath goods stolne, if the felon
be thereof indicted and arraigned, and found
guilty thereof, or otherwise attainted by rea-
son of evidence given by the party robbed,
or the owner of the goods, or other by their
procurement, then the goods shall be resto-
red though they never made fresh suit. *Dal.*
306. Cro. 191. a. Lam. 586.

And the Justices have power to award writs
of restitution. *21 H. 8. c. 11. Lam. 586. Cro.*
191. a. Br. Restitution 22. Dal. 306.

Executors shall have restitution after at-
tainer

Restitution of stolne goods. 261

rainder or conviction upon evidence by their means given. *Dal. 306.*

Three are robbed, restitution shall be onely to such for whose goods the felon was indicted. *Dal. 306. Cro. 191. a.*

A felon stealeth from severall men, is attainted onely at the suite of one; the King shall have the goods of those, at whose suite he was not attainted. *Dal. 306.*

There be divers theeves, and onely one principall is attainted, the robbed shall have restitution. *Dal. 307.*

If the felon sold the stolne goods in market overt, or in a faire, no restitution, except he that bought them were privy to the felony. *ibid. Cro. 191. a.*

No restitution of stolne goods, if he know not the felon. *Dal. 307.*

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Mannour seisseth them. *Dal. 307.*

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them wheresoever he findeth them. *Co. 5. 109. Dal. 307.*

“A man had his horse stolne, and so he published it, but knew not who stole it, so that he could not indict him, &c. It seemeth that he shall not have his horse againe, for it was his folly to publish that it was stolne, for he might have demanded it, as lost. And when he knew who tooke his horse, he might afterwards indict him. *Cro. 191. b.*

Returne.

Recognisance taken by the Just. of peace *ex officio*, ought to be returned at the next Q. Sessions. *Lam.* 109. *Dal.* 173. *Cro.* 139. *a.* *Supplicavit* is to be returned into the Court whence it came. *Lam.* 107. *Dal.* 177.

Returne of a recognisance upon a *supplicavit*, is not of necessity till *Certiorari*. *Lam.* 109.

Returne of Jurors, *vide* Jurors.

Vide Recognisance, & Release, & Certificate.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and doe accordingly execute or attempt the same. *Lam.* 176. *Cro.* 61. *a.* nu. 2. *Dal.* 221.

“Three or moe enter into land with force,
“ &c. where their entry is lawfull, it is a riot.
“ *Dal.* 226. *Cro.* 64. *a.* nu. 49.

*What Assemblies shall not be
said a Riot.*

1 Sheriffe or Bailiffe levie people to serve the Kings writs. *Lam.* 178. *Dal.* 223.

2 Constable gathereth assistance of men with weapons to part an affray. *Lam.* 178.

3 A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market. *Lam.* 179. *Dal.* 224. *Cro.* 64. *a.* nu. 42.

4 Many

4 Many assemble together, and they know not to what end. *Lam. 179. Cro. 61. b. nu. 7. Dal. 222.*

5 Many assemble at a Church-ale, or at a Christmasse dinner, and they suddenly fall out and fight. *Lam. 179. Dal. maketh quere 223.*

6 A number of women and children under the age of discretion flock together for their owne cause, unlesse moved by a man of discretion to doe some unlawfull act. *Lamb. 180. Dal. 226.*

7 To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *Lam. 178.* yet if he use threatning words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot. *Dal. 225. Lam. ibid.*

8 To meet to drink at an alehouse, to play at football, bucklers, beare or bul-baiting, dancing, bowles, cards or dice, or such like disports. *Dal. 223. Lam. 178. Cro. 61. b. nu. 7.*

9 To use harnessse on Midsummer day at night in London, or on May-day in the countrey. *Lam. 178. Cro. 64. a. nu. 43. Dal. 223.*

The Master intending a riot, taketh with him his ordinary servants who know not his intent, it is no riot in the servants, *Lam. 179. Cro. 61. b. 62. a. nu. 13. Dal. 222.*

A Jury falleth out and fighteth, it is no riot. *Dal. 222. Lam. 180.*

If any assemble for any disports, as afore-
said,

said, with intent to breake the Peace, and make an affray, or doe other outrage, it seemeth to be a riot in so many as come with such intent. *Dal.* 223.

¶ *Quare* if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dal.* 223, 224. But if by agreement they meet againe and fight, it is a riot. *ibid.* *Vide Dal.* 224. *Cro.* 61. b. nu. 12.

It can be no riot, except there be an intent precedent to doe some unlawfull act with force. *Dal.* 222. *Cro.* 62. a. nu. 13.

Yet if a man goe to Sessions or market with his servants in harnesse, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro.* 61. a. *Vide* 2 E. 3. cap. 3. *Dal.* 225.

What one Just. of Peace is to doe in case of Riots.

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and binde them to their good behaviour. *Dalt.* 109. *Lam.* 181.

A riot being done, Justices of peace can neither record the riot, nor make enquiry, nor assesse the fine, nor award proceffe, nor meddle with it, but only as a trespassse against the Peace, or upon the stat. of Northampton of forcible entry. *Dal.* 110. *Lam.* 181.

Justices of peace sitting in a judiciall place, and seeing a riot, may command them to be arrested, and record it, and it
con-

concludeth the offenders. *Dal.* 110. *Cro.* 65. nu. 54. *Lam.* 385.

But a Justice of peace in another place seeing a riot, and recording it, the parties may traverse it. *ibid.* *Cro.* 65. a. nu. 53. *Lam.* 386.

Every Justice of peace being of and in the county, having notice of any riot, ought to have a care to execute the statute 13 H. 4. c. 7. viz. that the rioters be arrested, &c. and removed, otherwise the next Justices forfeit 100. pounds a piece, and every other Justice in whom there shall be default, fineable in the Star-chamber. *Dal.* 110. *Cro.* 124. a. nu. 22.

One Justice of peace may arrest rioters, enforce them to find sureties for the Peace or good behaviour, or in default commit them to prison. *Dal.* 112. *Cro.* 157. b. *Lam.* 181.

A Justice of peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to break the Peace. *Dal.* 110. *Lam.* 181. *Br. Peace* 7.

If the Just. of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to find sureties for the peace, and his command by word is sufficient. *Dal.* 110. *Cro.* 64. a. nu. 45. & 148. b.

One Justice of peace may cause all statutes for suppressing of riots to be put in execution. *Dal.* 111.

If the riot be notorious, it is not safe to
N flay

stay complaint or information. *Dal.* 111.

*What two Iustices of Peace may
doe in a Riot.*

They ought to send for the Sheriffe or Undersheriffe, if none of them come. *Dal.* 112. *Lam.* 327.

If one or two next Justices doe come, and not the Sheriffe or Undersheriffe, such as come shall be excused of their fine of 100. pound. *Dal.* 111. *Lam.* 327. *Cro.* 63. *b. nu.* 35.

If one Justice of peace in the county shall execute the statute of 13 H.4.c.7. it shall excuse the next Justices. *Dal.* 112. *Lamb.* 326, 327.

Two Justices of Peace present without the Sheriffe, are fineable if they do not all which by the statute of 13 H.4.c.7. ought to be done. *Dal.* 112. *Lam.* 327.

“ If two Justices of Peace (without the
“ Sheriffe or Undersheriffe) see persons com-
“ mitting a Riot, they may cause them to be
“ arrested, and record it. *Lam.* 319. *Quere.*

*The particulars which the two next
Iustices of Peace with the She-
riffe or Vnder-sheriffe must doe
upon the statute of 13 H.4.c.7.
Dal.* 113.

1 They must goe to the place where the riot is. *Dal.* 113.

2 They shall take the power of the county
(viz.)

(viz.) all above 15. years of age, under the degree of Barons, upon paine of imprisonment, fine and ranfome. *Dal. 114. Cro. 157. b. Lam. 314, 315.*

It is not good to raise the power of the county without certaine information and knowledge, yet they may doe it upon information, (though it be false, and be excused) or without information, it when they come they finde one. *Dal. 114. Lamb. 315, 316. Cro. 64. b. nu. 49.*

3 They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons. *Dal. 114. Lamb. 316, 317.*

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth. *Dal. 115.*

Such as they meet coming from the place riotously arrayed, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal. 114. Lamb. 316. Cro. 63. a. nu. 32.*

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that proceffe may come from thence. *Dal. 115. Lam. 318.*

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour. *Dal. 115. Cro. 196. a. nu. 27.*

And so they may doe upon information,
N 2 but

but it is best to doe it upon enquiry, and so to fine them. *Dal.* 115.

In execution of the said arrest of rioters, the Justices may justifie the beating, wounding, or killing of any the rioters which resist or will not yeeld. *Dal.* 115. *Lam.* 316. *Cro.* 62.b.nu.20. & 158.b.

4 After arrest the Justices, Sheriffe or Under-sheriffe shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formall and certaine, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63.a.nu.31. *Lam.* 316, 317.

The form of the record, vide Dal. 401. *La.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders. *Dal.* 115. *Lam.* 318.

If the rioters make a riot upon the Justices, they may record it also. *Dal.* 115.

Justices record a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded. *Dal.* 116. *Cro.* 63.a.nu.33. 65.a.nu.56. 130.a. *Lam.* 317.

5 The Justices are presently to commit rioters to the gaole, and the power of the county ought to be aiding to the Sheriffe or Under-sheriffe. *Dal.* 116, 117.

None may commit the rioters but the Justices who had the view. *Dal.* 116.

If the Justices, and Sheriffe, or Under-sheriffe commit to prison the offenders, and doe not record the riot, every one of them loseth

loseth 100. pound, or do record the riot, and doe not commit the offenders. *Dal.* 117. *Cro.* 61.b.nu.10.

6 The said Justices and none other shall asseſſe the fine upon the offenders, which by the statute of 1 H. 5. c. 8. ought to be of good value, that thereout the charges of the Justices and other officers maybe born, yet must it be reasonable and just. *Dal.* 116. *La.* 317. *Cro.* 161.a.nu.45.

The fines must be imposed upon every offender severally. *Dal.* 117. *Co.lib.* 11.43, 44.

The fine must be estreated into the Exchequer, *Dal.* 117. and then to deliver the offender as it seemeth. *ibid.*

The Justices, as it seemeth, may out of the fines pay the charges of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffes fees; and the Justices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12. pence when they pay their fines. *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions or Kings Bench. *Dal.* 117.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the money remaining of the fine. *Dal.* 119.

Where Justices of P. are remiſſe in punishing the rioters, the Lords in the Star-chamber may and do often asseſſe greater fines for the same riot. *Dal.* 120. *Cro.* 63.a.nu.30.

7 If the riot was not committed in the presence of the Justices, or the rioters gone before their coming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sheriffe, and record the riot being found, which is to remain with one of the said Justices. *Dal. 117. Lam. 321.*

The forme of such enquiry, vide Dal. 42, Lam. 329.

Enquiry shall not be unlesse the rioters be gone. *Dal. 117.*

It is not necessary that one of the Justices of Peace be of the Quorum. *Dal. 118. Cro. 62. b. nu. 25.*

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100. pound: yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken. *Dal. 118. Lam. 322.*

At the inquiry the Sheriffe or Under-sheriffe must be present, but then as Ministers onely. *Dal. 118. Lam. 321.*

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dismisse thereupon the Jury, the Justices shall be fined, though none will sollicite the Inquest, or give evidence to the Jury; for the Justices ought to proceed *ex officio*, seeing some of the Jury may have knowledge of the riot, and they ought to make proclamation if any will give evidence. *Dal. 118. Lam. 322.*

If at the parties request the Justices dismisse the

the Jury without enquiry, they are fineable in the Star-chamber to the King. *Dal.* 118. *P.R.* 29.

The Justices may binde to the good behaviour the parties complaining of the riot, who caused them to meet and will not prosecute for the King, but have agreed it. *Dal.* 118.

Though the Justices go not to see the riot, yet they may enquire within a moneth after. *Lam.* 321.

8 After enquiry had and the riot found, the Justices have power to heare and determine the same. (*viz.*) First to make out procelle against the offenders under their owne test. Secondly, to aslesse the fine. Thirdly, to commit till they have payed the fine. Fourthly, to deliver them after payment of their fine or sureties taken by recognisance, or otherwise they may receive their traverse, if the matter will serve, and dismisse them. *Dal.* 119. *Lam.* 323. *Br.Impris.* 100.

But the Justices should send such indictment or inquisition to the next Quarter Sessions or into the Kings Bench together with the said traverse there to be tryed. *P.R.* 30. *Dal.* 119.

9 If the riot upon enquiry cannot be found, the Justices and Sherriffe must certifie into the Star-chamber, or Councell board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *sub pœna*. *Dal.* 120. *Lam.* 323, 324. *Pœmunire Br.* 1.

The certificate must be made within a
N 4 moneth

moneth after the enquiry, or else it is of no force. *Dalt.* 121. *Lam.* 324.

Though two Justices with the Sheriffe see the riot, yet two other Justices, may make the enquiry, and they all together, or the first two, or last two, with the Sheriffe, or Under-sheriffe, may make the certificate. *Dal.* 121. *Lam.* 325.

Where the severall certificates be made, or certificate and enquiry doe disagree, the best for the King shall be preferred. *Dal.* 121. *Lam.* 325.

If the Jury find but some guilty, the Justices may certifie the rest. *Dal.* 121. *Lam.* 325.

Any materiall thing left out in the inquisition, may be supplied in the certificate. *Dal.* 121.

Quere if after enquiry and before certificate the Sheriffe die, or one of the Justices be put out of Commission, whether a certificate can be made. *Dal.* 121. *Vide Lam.* 326.

Upon the certificate of two Justices and the Sheriffe, the Lord Chancellour may grant a *Capias* to attach the offenders. *Dal.* 121. *Lam.* 313.

Upon default of the Justices and Sheriffe in not executing the statute 13 *H.4.c.7.* the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Justices and Sheriffes default. *Dalt.* 121.

“ Also the Lo: Chancellour may send his writ to the Justices and Sheriffe to execute the statute of 13 *H.4.c.7.* *Dal.* 121.

“ The Justices and other officers shall doe
“ their

their offices at the Kings charge in going,
 carrying & returning, in the doing of their
 said offices, by payment thereof to be
 made by the Sheriffe for the time being,
 by Indenture betwixt him and the said Ju-
 stices and other officers aforesaid to be
 made of the payment thereof, whereof the
 Sheriffe upon his accompt in the Exche-
 quer shall be allowed. 2 H. 5. c. 8.

The Sheriffe is to returne 24. whereof
 every one hath lands and tenements within
 the same Shire of 20. s. *per an.* of charter
 lands, or 26. s. 8. d. of copihold, or of both
ultra reprisas; and must returne for issues
 upon every one at the first day 20. s. at the
 second 40. s. if they doe not appeare and
 be sworn the first day. And the Sheriffe or
 Under-sheriffe not returning persons suf-
 ficient, loseth for every one 20. l. to the
 King. 19 H. 7. c. 13.

If the riot, rout or unlawfull assembly
 be not found by the Jury by reason of any
 maintenance or embracery of the Iuries:
 the Iust. Sheriffe or Under-sheriffe, (besides
 such certificate to be made by 13 H. 4.)
 shall, in the same certificate, certifie the
 names of the maintainers or embraceors,
 upon paine of every Iustice, Sheriffe or
 Under-sheriffe 20. l. (if they have not rea-
 sonable excuse) which certificate shall be
 of force, as if the matter therein found
 were found by the verdict of twelve men.
 And every maintainer and embraceor
 forfeiteth twenty pound, and to be com-
 mitted to ward, to remaine during the

“ discretion of the Iustices. 19 H.7.ca.13.

“ Indictment of a riot is not good unlesse
 “ it say *contra formam statuti inde editi & pro-*
 “ *visti.* Cro. 102.a.nu.19.

Rivers.

Every Justice of Peace is a conservatour of rivers within his county, and may survey the weares in rivers that they be of reasonable widenesse. Lam. 189.

Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steale them, and putting him in feare thereby, though the thing taken be but to the value of an half-peny. Cro. 33. b. nu. 1. Lam. 267. Dal. 260.

But if a felon take money from me in the high-way, and shall not put me in feare, it is not robbery. Dal. 260. Cro. 34 b. nu. 12. Lam. 266.

If a thiefe take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. Dal. 260. As,

1. I cast my purse on the ground, and he taketh it away. Lam. 268. Dal. 261.

2. After assault he prayeth me to give him a peny, and I doe so. Dal. 261.

3. If upon assault I deliver my purse. Dal. 261. Cro. 34 b. nu. 10. Lam. 267, 268.

4. If flying from a thiefe, I cast my purse into a bush, and he doth afterwards take it away.

away. *Dal.* 261. *Cro.* 35. a. nu. 10. *Lam.* 263.

5. If upon assault I flie away, and my hat fall, and the thiefe carry it away. *Cro.* 35. a. nu. 18. *Dal.* 261.

6. If a thief bid me deliver my purse, (without any force used) and I deliver it, and he finding but two shillings in it, delivers it againe. *Cro.* 34. b. nu. 10. *Dal.* 261.

7. If by threats he compell me to sweare to bring him money, and afterward I bring him the money accordingly. *Dal.* *ibid.* *Lam.* 268.

In some cases it is robbery, though the thiefe neither take it from my person, nor assault me.

As, 1. A thiefe taketh my goods openly in my presence against my will, the feare is the like as if it had beene from my person. *Cro.* 34. a. nu. 5. *Lam.* 269. *Dal.* 261.

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in feare. *Dal.* *ibid.* *Cro.* 34. b. nu. 5.

3. To make it robbery, the person must be put in feare. *Cro.* 34. b. nu. 12. *Dal.* 261.

4. Two come to rob me, and one aſterh it, being out of the sight of the other, who after returneth to him; it is robbery in both. *Cro.* 34. a. nu. 10. *Lam.* 270. 28 *El.* *Pudseys case.* *Dal.* 262.

To assault one to rob him without taking any thing, is not robbery. *Cro.* 34. a. nu. 9. *Dal.* 261.

After a robbery committed, the hundred must answer the losse, if the robbers be not taken within 40. dayes: if it be done in the division of two hundreds, both hundreds and the

the franchises within them must be answerable, and the hundred wherein defect of fresh suit is, the one moiety. *Dal. 131. 27 E.l.c. 13.*

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20. dayes next before the action brought, upon his corporall oath before some one J. of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if hee confesse he knoweth any of them, then shall he before such action brought, enter into recognisance before the said Justice, effectually to prosecute such persons by indictment or otherwise according to the due course of the lawes of this Realme. *27 E.l.c. 13. Lam. 202. Dal. ibid.*

After robbery committed, the robbed shall not recover against the hundred, except 1. with all convenient speed he give notice of the robbery to some inhabitant neare to the place where the robbery was committed.

2. Hee commence his action within a year and a day next after such robbery committed.

3. He be examined *ut supra*, before a Just. of Peace. *Dal. 131.*

Any two Justices of Peace in the hundred, one being of the Quorum, may assesse all towns and parishes in the said hundred & liberties therein, upon recovery & execution had against any of the hundred, towards an equall contribution; which money the Constable must deliver to the same Justices within

within ten dayes after collection, and they upon request, to those to whose use it was collected. *Dal. 132. Cro. 197. a.*

And the hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry. *Dal. ibid.*

Robbery in a house doth not charge the hundred, whether it be done in the day or in the night. *ibid.*

The hundred is discharged upon taking of any of the offenders by pursuit, *Dal. 133.* so if the party robbed take any of the offenders after Hue and Cry made. *Dal. ibid.*

Robbing of an house.

1. Robbing a house or any out-house, as a barn or stable in the day, to the value of 5. shil.

2. Robbing a house by day or by night, any person being therein, and thereby put in fear.

3. Robbing any person in any part of his dwelling house, the owner or dweller, wife, children, or servants being in any place within the precinct of the same, sleeping or waking.

4. Robbing any booth or tent in faire or market, the owner, his wife, children or servants being in the same, sleeping or waking. *All these are as penall as Burglary. Dal. 287. Lam. 265, 39 El. c. 15. 21 H. 8. c. 1. 5 E. 6. c. 9.*

Rogues.

All persons hereunder mentioned, being above the age of 7. yeares, may be punished as rogues. *Dal. 123. 39 El. c. 4.*

1 All

1 All going about begging upon any pretence or colour, though licensed by any subject, except in some particular cases after mentioned. *Dal. ibid. Lamb. 442.*

2 All going about the countrey using any subtil craft or unlawfull games, as fortune-tellers, juglers. *Dal. ibid.*

3 All proctours, patent gatherers, or collectors for prisons and hospitals. *La. 442. Dal. ib.*

4 All fencers, bearwards, common-playcers of interludes, and minstrels wandring abroad. *Dal. ibid. Lam. 443. 1 Jac. c. 7.*

5 All pedlers, pety chapmen, tinkers, and glasse-men wandring abroad. *1 Jac. c. 7. Dal. ibid. Lam. 443. 2 1 Jac. c. 28.*

6 All wandring labourers able in body, refusing to worke for reasonable wages, having nothing but labour to maintaine themselves. *Dal. 124. Lam. 443.*

But such as are of any parish, able to worke, and doe not wander, but refuse to worke for the usuall wages taxed in those parts, are to be sent to the house of correction. *Dal. ibid.*

7 Poore of the parish begging otherwise then is appointed them, or begging by high-ways, *ibid.* are to be sent to the house of correction.

8 All pretending to be Ægyptians, not being felons. *Dal. ibid. Lam. 443.*

9 Soldiers or mariners that beg, except soldiers or mariners having a testimoniall from a Justice of Peace neare the place of their landing, with the place of their dwelling or birth to which they are to passe, and a convenient time limited for their travell, and pursuing the said

said license 39 *Eliz.c.4.* or doe counterfeite any certificate from their Generall, Governour, Caprain, Lieutenant, Marshall, Deputy or Admirall. *Dal. 124.*

10 Diseased persons travelling to the Baths and licensed, if they beg, or not licensed by two Justices, or not returning as they are limited. *Dal. 124. Lam. 443.*

11 A rogue once whipped, not performing the order appointed by his testimoniall. *Dal. 124.*

12 A rogue going with a generall passport, not directed from parish to parish. *Dal. ibid.*

So a rogue carrying his owne passport without a guide. *Dal. 124.*

13 Servant departing out of service without testimoniall, 5 *El.c.4.* or taken with counterfeited testimoniall. *Dal. 124.*

14 Persons infected with the Plague, or dwelling in infected houses, going abroad contrary to order. 1 *Jac.c.31. Dal. ibid.*

15 Persons able to labour and relieve themselves and families, that run away or threaten to run away and leave their charge to the parish. 7 *Jac.c.4. Dal. 125. 21 Jac.c.28.*

16 Any calling himselfe a scholar, that hath gone about begging. *Lam. 443.*

17 Any pretending losse by fire or otherwise, that wandring beggeth. *Lam. 443.*

18 Any delivered out of gaole, that hath begged for fees. *Lam. 443.*

Any Justice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall be taken begging, wandring, or misordering himselfe, and is declared

red by the statute 39 E. 4. to be a rogue, vagabond, or sturdy begger, and shall cause him so whipped to be sent from parish to parish by the officers of the same, the next way to the parish where such person was borne, if it can bee knowne; if not, to the parish where such rogue last dwelt before the punishment by the space of a yeare, there to labour; or not being known where he was borne or dwelt, then to the parish through which he last passed without such punishment, to whom the Justice shall under his hand and seale make a testimoniall witnessing his punishment, day and place thereof, and whither he is limited to travell, and by what time. And in case such place of birth and last dwelling be not found nor knowne, then such person shall by the officer of such village through which he last passed without punishment, be conveyed to the house of correction of the limit, or to the common gaole, 39 Eliz. c. 4. there to remaine in worke untill such person be placed in service for one yeares continuance, or not being able of body, till such person be placed in some alms-house of that place or county. Lam. 204, 205.

☞ The like may be done by Constable assisted with the advice of the Minister, and one other of the Parish. 39. Eliz. c. 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the gaole untill the next Sessions: so if he misreport the place of his last dwelling by the space of a yeare, if it appeare not where he was born.

borne. *Lam.* 207. *Ref.* 1, 2. *Dal.* 128.

Husband and wife having an house, rogue about, they must be sent to the town where that house is ; and so of an inmate. *Lam.* 207. *Ref.* 3. *Dal.* 125.

Wife, and children under 7. years being vagrant, are to be placed with the husband ; if the husband be dead , then where they were borne or dwelt last. *Lam. ibid.* *Ref.* 4, 9, 10. *Dal.* 125.

Children vagrant above 7. yeares old must be sent to the place of their birth. *Dal.* 125. *La.* 207. *Ref.* 4.

Vagrant parents, with their children under 7. yeares of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after, or running away, the children once settled must still remaine there. *Dal.* 125. *Ref.* 4. *Lam.* 207.

Wife vagrant is to be sent to her husband though he be but a servant. *Lam.* 208. *Ref.* 5. *Dal.* 125.

Rogue, whose place of birth or dwelling cannot be knowne, hath wife and children under 7. years of age, they must be sent with the husband to the place where they were last suffered to passe unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction. *Lam.* 208. *Ref.* 6.

Rogue sent to a towne, and refused by the Churchwardens and Overseers to whom he is to be offered, is a forfeiture of five pound in the refuser. *Lam.* 210. *Resol.* 12, 14. *Dalt.* 128.

Any

“ Any hindering the execution of the law of
 “ 39 *Eliz.* or any part thereof for the convey-
 “ ing of rogues, forfeiterh five pounds. And
 “ any two Justices may binde such offender to
 “ the good behaviour, and upon confession of
 “ the offender or oath of two may by warrant
 “ under their hands and seales cause the
 “ said summe of 5. pound to be levied by di-
 “ stressle and sale of the offenders goods. *Dal.*
 “ 128. 39 *El.c.4.*

“ Rogue sent from the place where he is ta-
 ken, by a generall passport, without conveying
 him from parish to parish, is a let in the con-
 veying of rogues, and a forfeiture of 5. pound.
Lam.210. Ref.13. Dal.128.

Rogue going with such a passport, continu-
 ing a rogue, is to be punished by whipping. *ibid.*

. By parents is to be understood father or
 grandfather, mother or grandmother, being
 able persons. *Lam.210. Ref.16.*

. By children, any child or grandchild being
 unable. *Lam.210. Ref.15.*

. Diseased persons living of almes, and trav-
 vellers to Bath or Buxton for remedy, are to be
 licensed thereto by two Justices of Peace, 39.
El.c.4. Lam.332. yet may not beg, but must
 be provided of maintenance for their travell.
Dal.124.

. Forfeiture of offences against the statute
 39 *El. c. 4.* upon conviction by confession or
 by two witnessles before two Justices of peace,
 they may cause the same to be levied by war-
 rant under their hands and seales, by distresse
 and sale of the offenders goods. 39 *El.c.4. La.*

331. See 1 *Jac.c.7. Dal.129.*

All questions growing upon the statute of rogues, may be heard and determined by two Justices of Peace, whereof one of the Quorum. *Dal.129.39 Eliz.c.4.*

Constable or tything-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20. shill. for every offence, *Dal.128. and 5. pound* if they do not convey them away towards their dwelling or place of birth. *39 Eliz.cap.4. Lam. 444. 1 Jac.c.7. Dal.129.*

Minister of the parish not keeping a register of the testimoniall of rogues punished in his parish, and conveyed thence, loseth for every default 5. shill. *39 El.c.4. Dal.129.*

Every one is to carry to the Constable such beggars as they shall know to come to their doors for almes, or lose 10. shillings. *1 Jac.c.7. Dal.129.*

Justices of peace are to meet twice a yeare at the least, and oftner if occasion be, in their severall divisions, for the executing of the statute against vagabonds, and foure or five dayes before by warrant to command the Constables of hundreds or towns by assistance of some of every town, to make a generall privy search by night for finding and apprehending rogues to be brought before the Justices at their meeting by them, and punished, or sent to the house of correction. *7 Jac.c.4. Dal.130. 21 Jac.c.28.*

Constables at every meeting of the Justices of Peace for the execution of the statute of rogues,

rogues, are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also betwene every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40. shill. as by the most of the Just. shall be assessed. 7 *Iac.c.4. Dal. 130.*

No man is to be put out of the town where he dwels, or sent to his place of birth or last habitation, but onely a vagrant rogue. *Dal. 126 Ref. 9. Lam. 209.*

So of them whose termes of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent. *Dal. 126.*

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter Sessions. 39 *El.c.4. Lam. 427. Dal. 287.*

Rogues by judgement of most of the Justices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling place where they dwelt for a yeare; or if that cannot be knowne, to their places of birth. 1 *Iac.c.7.* If he offend againe in begging or wandering, it is felony without clergy. 1 *Iac.c.7. Lam. 428. Dal. 287.*

“Soldiers and mariners having a testimony
“all, under the hand of the Justice next to his
“landing place, of the time and place of his
“landing, limiting the place to which he is
“to

“ to passe, and the time ; if he pursue the said
 “ license, he may aske and take such neces-
 “ sary reliefe as any will give him, 39 *El.c.17.*

“ *Lam.303. Dal.126.*

“ Two Justices of Peace may send to the
 “ house of correction, as a sturdy rogue, a per-
 “ son able to work, threatening to run away
 “ and leave his family upon the parish, being
 “ proved by the oath of two before the said Ju-
 “ stices, unlesse he can put in sufficient bond
 “ for discharge of the parish. 7 *Iac.c.4. Lam.*
 “ 331.

“ He which runneth away and leaveth his
 “ charge to the parish, is an incorrigible rogue.
 “ 7 *Iac.c.4.*

Rome, *vide* Pope. Co.11.36.

Rout.

Rout is where three or more persons be disorderly assembled to commit any act with force, whether they put in execution their purpose or no, if they so do goe, ride, or move forward after their first meeting. *Lam.176. Dal.221.*

“ A rout is onely by some opinions, where
 “ three or more doe assemble for their owne
 “ common quarrell: As, The inhabitants of a
 “ towne assemble to pull downe a house, wall,
 “ pale, ditch, or other inclosure, pretending to
 “ have title of common, or a way there, or to
 “ beat a man that hath done some publique
 “ offence. *Dal.221, 222.*

Sacriledge.

Sacriledge is the felonious taking of goods out of any Church or Chappell. *Lam.* 420.

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and bind them all to give evidence at the day of tryall; and they being found guilty shall be imprisoned and fined. *1 Ed. 6. c. 1. Dal.* 134. *Quære Lam.* 416, 366.

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of *1 E. 6. c. 1.* for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias utlagat.* into any shire. *1 Ed. 6. c. 1.*

“Justices of Peace in their *Q.* Sessions may
“enquire, heare and determine of all recus-
“sants and offences, as well for not receiving
“the Sacrament according to *3 Jac. c. 4.* as not
“repairing to Church. And in their Sessions
“(wherein there shall be indictment taken
“for not repairing to Church, or not recei-
“ving the Sacrament) to make Proclamation
“to render their bodies to the Sheriffe before
“the next Sessions, and in default, a convicti-
“on. *3 Jac. c. 4. Lam.* 616.

Salmons, *vide* Fish.

Saltpetermen.

Saltpetermen cannot dig in the mansion
house

house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family and goods by theeves and other malefactors. *Co. 11. 82. Dal. 209. Vide House.*

Schoolmaster.

To keep or maintaine a Schoolmaster which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocesse, the maintainer forfeits ten pounds for each month, and the Schoolmaster to be imprisoned for a yeare without bayle, and disabled. *23 El. ca. 1. Lam. 419.*

Any keeping a Schoole, or being a Schoolmaster out of the University, except in publike Grammar-schoole, and except in such Noblemen and Gentlemens houses as are not recusants, and licensed by the Archbishop or Guardian of the Diocesse, both keeper and Schoolmaster forfeits 40. shill. a day. *1 Jac. c. 4.*

Seditious sectaries.

One Justice of Peace may within three moneths after the conviction of any seditious sectary or Popish Recusant described in the statute of 35 *El. ca. 1.* require the submission of him to conformity, and in default of such submission, may require him to abjure the Realme; and if hee refuse, or after returne without license, it is felony. *35 El. c. 1. & 2. Lamb. 204.*

Sermon,

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Servingmen, *vide* Testimoniall.

Sessions of the Peace.

The Sessions of the Peace is an assembly of any two or more Justices of Peace, one being of the Quorum, at a certaine day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to heare and determine according to their power of causes within the Commission and statute referred to their charge. *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing. *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriffe, and by him to be returned at the Sessions. *Lam.* 381.

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the Quorum, but not the *Custos Rotulorum* alone; and summons cannot be discharged by *Supersedeas* of all the other Justices, but by *Supersedeas* out of the Chancery. *Lam.* 382, 383.

Sessions held by one Just. of P. is not good although it were summoned by two, and styled by their names; but by two sufficient Justices it is good, though it be styled by the name of three. *Lam.* 383.

Quarter

Sessions of the Peace. 289

Quarter Sessions are to be held four times in the yeare, (*viz.*) the first week after S. Michael, the Epiphany, the clause of Easter, after the translation of S. Thomas the Martyr, which is 7. July. 2 *H.5.c.4. Lam.597.*

“ The Easter Sess. by 33 *H.8.c.10.* are to be holden the Tuesday next after Low-Sunday. *Lam.605.*

“ Justices of Peace shall hold their Sessions four times in the yeare, *viz.* Once within the Octaves of the Epiphany: the second, in the second week of Lent: the third, between the feasts of Pentecost and S. John Baptist: the fourth, within the Octaves of S. Michael. 36 *Ed.3.c.12. Cro.123.b.nu.16.*

“ Where *Crompton* noteth, that by 12 *R.2.c.10.* it is ordained that the Qu. Sessions should be held every quarter of a yeare at the least, and three dayes if need be; by which it appeareth that the usuall day is not of necessity, so it be kept within a quarter of a yeare. *Cro. ibid.*

“ By the stat. 2 *H.5.c.4* Justices of Peace shall keep their Sessions four times in the yeare, *viz.* in the first week after S. Michael, in the first week after the Epiphany, in the first week *post octav. Pasche*, & in the first week after the Translation of S. Thomas the Martyr, which is the 7. of July, and oftner if need be. *Cro.123.b. nu.17.*

“ *Cro.123.b. nu.18* saith, that upon the stat. of 17 *R.2.c.9.* (which permitteth to keepe Sess. so oft as is expedient) that in Kent they keep their Sess. at other times the the times

290 Sessions of the Peace.

“appointed by 2 H.5.c.4. & that it is good.

The place where Sessions are to be holden as arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another ; but then there can be no amerciament for default of appearance. *Lam.*383,384.

Two Sessions at one time for one county lawfully summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good. *Lam.*384.

At a generall Sessions all matters enquirable by Justices of Peace, either by their Commission, or by statute, ought to be given in charge, otherwise at a speciall Sessions, *Lam.*623. and may be held three dayes. 606. 12 R.2.c.10.

Two sorts of men owe their ordinary attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court, and Jurors of the County. *Lam.*386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputy. *Lam.*387.

The Clerk of the Peace. *Lam.*393.

The Sheriffe. *Lam.*395.

The Coroners. *Lam.*394.

“Ministers, as Bailiffes of Franchises, Constables of Hundreds, the Ordinary. *Lamb.*

“395. Jurors for enquiry and tryall. *La.*396.

The Just. of P. if need require, may keep a speciall Sessions by vertue of their commission, or by the statute 2 H.5.c.4. *Lam.*623.

Sum-

Sessions of the Peace. 291

Summons of a speciall Sessions is for the most part for some speciall enquiry, and not to the generall service of the commission. *Lam. 623.*

All matters within the commission or statute may at a speciall Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them. *Lam. 623, 624.*

If two Justices of the Peace, one being of the Quorum, make a precept to the Sheriffe for the holding a Sessions at such a place and day, and to returne a Jury before them, other Justices cannot by their *Supersedeas* to the Sheriffe inhibit him, *Cro. 122. b.* but the King by his writ of *Supersedeas* may discharge it. *ibid.*

A man is bound to appeare before a Justice of Peace within forty dayes after, in the mean time a generall Sessions is kept, he ought to appeare before the Justices at the Sessions. *Cro. 123. a. nu. 8.*

A Justice commands one on paine of 10. pound by his precept to appeare at the next Sessions, and he doth not, no *Scire facias* shall goe against him more then upon a *Sub poena*, but it seemeth he may be attached upon a contempt. *Cro. 123. a. nu. 9.*

“ All that come to the Sessions for publique service, or upon compulsion, upon
“ complaint and examination of the matter
“ upon oath shall be freed from any arrest
“ upon Original processe. *La. 402. Cro. 190. b.*

“ Justice of Peace may record a force, if
“ he be disturbed in comming to the Sessions,

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“ so that he dare not goe to the Sessions,
“ and they shall be convicted by that record.
“ *Cro. 190.b.*

Sewers.

Commission of sewers being expired, sixe Iustices of Peace, two being of the Quorum, may for one year after execute the lawes of Commissioners of sewers, unlesse a new bee published. *13.El.c.9.*

Sheep.

To transport sheep beyond the seas without license, or to procure the same, is felony for the second offence. *23.H.8.c.16. 8.Eliz.c.3. Lam. 227, 425.*

Any bringing, sending, or receiving into any bottome any sheep alive out of the Kings dominions, or procuring the same, loseth his goods, is to bee imprisoned for a yeare, and then in open market to lose his left hand. *8.Eliz.c.3. Lam. 456, 457.*

Any keeping at one time above 2000 sheep of all sorts against the purport of the statute, loseth 3 shill. 4 pence for every sheep above 2000. *28.H.8.c.13.*

Sheriffe.

The *Custos Rotulorum*, or eldest of the Quorum in his absence, is to appoint at Michaelmasse Sessions, two Iustices of Peace, whereof one of the Quorum, to have the
over-

oversight and controlment of the Sheriffe, Undersheriffe, their officers and deputies, and of their bookes and amerciaments in their county Courts: and either of these two Iustices, or one Iustice of the Peace, may examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entring plaints in their Courts and books against the statute. 11. H.7.c.15. Dal.136. La.201,295, 600.

The particulars are. Dal.137. Lam.431.

1 If any plaints bee entred in their bookes in any mans name, the plaintiffe or sufficient Atturney not being in Court.

2 If the plaintiffe find not pledges to pursue his plaint, (*viz.*) such as are knowne in that countrey.

3 If they enter more plaints then one for one trespassse or contract.

4 If they enter more plaints then the plaintiffe supposeth he hath cause of action for against the defendant.

If upon examination the Iustices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King, and to the informer for every default, and the Iustices must certifie the examination to the exchequer within a quarter of a year, on pain of 40 shill. Dal.137.

The like for Bailiffes of hundreds in not warning the defendants to appeare. Dalr. *ibid.*

Sheriffe shall make no estreats to levie their sherriffes amerciaments untill the two Iustices

Justices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Justices and Sheriffe, or Undersheriffe under their seales. *Dal. ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriffs amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer. *Dal. ibid.*

The said Justices, upon information of the party grieved, may make like processe as in action of trespassse against the Sheriffe, &c. to appeare then to answer the said information or suggestion. *Dal. 138.*

Sheriffe ought to be at the Sessions to returne his precept, and keep the prisoners. *Lamb. 395.*

In these cases following the Sheriffe, &c. doth forfeit 40. pounds, and treble damages to the party grieved. 23 Hen. 6. c. 10. Lam. 430, 431.

1 Sheriffe that letteth his Bailywicks or any of his hundreds.

2 Or returneth in any pannells any Bailiffes, officers, servants, or servants servants.

3 Or refuseth to baile those that are bailable, offering sufficient surety.

4 Or taketh any obligation by colour of his office, but onely to himselfe, and upon the name of his office, and upon condition onely

onely to appeare according to the writ or warrant.

5 Or having taken for an arrest above 20. pence.

6 Or above 4. pence for any obligation, warrant, or precept.

7 " Or he or any other minister having taken any thing for making any returne or pannell.

8 Or above foure pence for the copy of a pannell.

9 Bailiffe for taking above foure pence for making an arrest.

10 Gaoler taking above foure pence of any committed to his ward upon arrest or attachment.

11 Sheriffe or his ministers that shall le-
vie any of the Kings debts, without shewing
the party the estreats under the Exchequer
seale, shall be fined and pay treble damages
to the party. 7 H.4.c.3. 42 Ed.3. c. 9. Lamb.
432.

12 Sheriffe or other his minister arrest-
ing, imprisoning, ransoming of, or levying
any amerciaments by reason of any Indict-
ments or presentments made in the Sheriffes
turne, without processe first obtained from
the Justices of P. or that hath not brought
in such indictments and presentments to the
Justices of the Peace at the next Sessions, lo-
seth 10. pound. Lam. 431. 1 Ed.4.c.2.

Sheriffe or any other who may make return
of any writ, that returneth any Jurour, with-
out true addition of the place of his abode,
or within a yeare next before, or without

some addition by which the Juror might be well knowne, loseth 5. marks to the King, and 5. marks to the party. 27 *El.c.7. Lam.432.*

Sheriffe or gaoler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such, is fineable. 4 *E.3.cap.10. Lam.434.*

Sheriffe; bailiffe, or other officer or person, refusing to pay over to the Churchwardens, &c. the moiety of the forfeitures by the statute of 4 *Jac.* against uttering of beer or ale to alchouse-keepers unlicensed, forfeiteth double value, 4 *Jac.c.4. Lam.434.*

Justice of Peace being chosen Sheriffe, his authority of Justice is suspended during his Sheriffewick; but after another is chosen and sworn, his authority as a Justice of Peace is as it was before without any new oath, except he be left out of the commission. *Dal. 11. & 12. Cro.121.4. nu.13, 14.*

Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3. shill. 4. pence for every paire of shoes, &c. and the value of them. 1 *Jac.c.22. Lam.465.*

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3. shill. 4. pence and the value of them. 1 *Jac.c.22. Lam:466. vide Leather.*

Shooting.

“ Any under the degree of a Lord of the
“ Par-

“ Parliament shooting within any city or
 “ towne at any fowle or other marke upon
 “ any Church or dove-coat, or any shooting
 “ in any place any hayle-shot or moe pellets
 “ then one at a time, every time offending
 “ forfeiteth ten pound, and imprisonment
 “ for three moneths. 2 *Ed. 6. c. 14.*

Vide Archery, Crosse-bows, Partridges.

Silke, *vide* Apparell.

Sope, *vide* Vessels.

Souldiers.

Souldier serving the King by sea or land,
 doth willingly give, purloyn, or put away any
 horse or harnesse wherewith he was set forth,
 (or being taken from other souldiers was ap-
 pointed to him,) upon complaint thereof to
 a Justice of Peace, he shall be committed
 without bayle, till he have made satisfaction,
 unlesse he have been formerly punished by
 the Generall or other, or shew forth in wri-
 ring under seale the lawfull losse thereof.
 2. & 3. *Ed. 6. c. 1. Lam. 194.*

Souldiers passing out of the Realme to
 serve any forraine Prince, not having before
 their passage taken the oath of allegiance
 before the officer appointed thereunto, it is
 felony. 3 *Jac. c. 4. Dal. 288.*

Souldier being a Gentleman, or of a high-
 er degree, or Captaine, or other officer in
 campe, passing to serve any forraine Prince,
 &c. before they be bound to the King with

two sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony. *ibid.*

Souldier entred upon record, and having taken presse-money, and that departeth without license, it is felony, 2 *H.7.c.1.* 3 *H.8.c.5.* *Dal.288.* or if they depart without license after they have served in the Kings warres, 2 *Ed.6.c.2.* *Dal. ibid.* So of mariners and gunners that have taken presse-money to serve the King on the sea, and come not unto, or depart from the Captain without license, it is felony. 5 *El.c.5.* *Dal.288.*

In these cases following, by the statute of 39 El. c. 17. souldiers and mariners doe become felons.
Dal.288,288.

Such which set not themselves to some lawfull course of life, but wander up and downe idly, not having a lawfull testimoniall (if they come from beyond sea) from some Justice of Peace near the place of their landing, expressing the place and time of their landing, the place to which they are to passe, and a time limited for their passage; or having such a testimoniall, if they shall exceed the time limited.

To forge or counterfeit such testimoniall, or to have a forged testimoniall, knowing that it is forged.

Or being retained in service after his arraignment

raignment, &c. if he depart within the yeare without license of his master.

Poore souldier, or mariner, or sea-faring man suffering shipwrack, may have a license from a Justice of peace next to his landing, to passe to the place of his repaire, and may aske and receive necessary reliefe in his direct passage, within the time limited to him. 39 *El.c.* 4. 39 *El.c.* 17. *Dal.* 126. *Lamb.* 303. 21 *Jac.c.* 28.

Every parish is to be taxed to the reliefe of disabled souldiers, by the greater part of the Justices at their Quarter Sessions next after Easter, so as no parish be above ten pence, nor under two pence weekly to be paid, so as the totall summe in any county where there shall be above fifty parishes, doe not exceed six pence every parish. 43 *Eliz.* cap. 3.

The said taxation to be assessed within themselves, and in default thereof by the Churchwardens and pety Constables or the greater part of them, in default thereof by the Justices or Justice of Peace dwelling in the same parish, or if none be there, in the parish next adjoyning. 43 *El.c.* 3.

In default of payment of the same assesse, the Churchwardens and pety Constables may levie it by distresse and sale, &c. and in their default the aforesaid Justices or Justice of Peace. 43 *El.c.* 3.

The Churchwardens and pety Constables are to pay over their collections to the high Constable ten dayes before every Quarter Sessions, and the high Constables at every Quarter

Quarter Sessions are to pay it over to the Treasurer. *ibid.*

If any of them make default, then the Churchwardens or pety Constables forfeit 20. shillings, and every high Constable 40. shillings to be levied by the Treasurer by distresse and sale for augmentation of the Stock. 43 *Elc. 3.*

Treasurer for maimed Souldiers must be 10. pound in lands or 15. pound in goods in the subsidie, and continue but for a yeare, and within ten dayes after Easter Sessions following to give account to his successor, in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace. 43 *Elc. 3.*

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall muster-master or receiver of the muster-rolls, Treasurer, or Controller of the navy under his hand, is to come to the Treasurer of the county where he was prest, or if he were not pressed, then to the Treasurer of the county where he was borne or last dwelt three years, if he be able to travell so far; or otherwise to the Treasurer of the County where hee landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, if the said pension be not duly revoked or altered. 43 *Elc. 3.*

Treasurers are to make payment quarterly.
of

of such pensions as shall be granted by the most of the Justices at the Qu. Sessions under their hands, and by them to be fined if they refuse to pay them. 43 *El.c.3.*

Pensions of souldiers and mariners, not having born offices, are not to be above 10.l. under the degree of a Lieutenant 15. l. a Lieutenant 20.l. 43 *El.c.3.* Pensions are revocable or alterable at the discretion of the Justices in the Qu. Sessions. 43 *El.c.3.*

Treasurer where any maimed souldier or mariner shal arrive upon certificate, (though not allowed) may give a testimoniall of his owne allowance, and convenient reliefe to carry him to the next County, leading him to the place where the generall muster-master shall be; and so may the treasurer of each County, leading him thither and from thence to the County where he is to have his pension. 43 *El.c.3.*

Treasurer is to enter into a booke money received and disbursed, with the parties names and certificate to whom it was paid. 43 *El.c.3.*

Treasurer not allowing a certificate in the act of 43 *El.c.3.* expressed, must endorse the cause thereof on the certificate. 43 *El.c.3.*

Souldier or mariner counterfeiterh a certificate, or having a pension beggeth, he shall lose his pension, and be adjudged a rogue. 43 *El.c.3.*

Soldier or mariner that cannot be relieved in the county where he was pressed, by reason that the whole taxation is imployed, shall be relieved where he was borne or dwelt the last

last 3. years at his election. 43 *El.c.3.*

Overplus of the stock for maimed souldiers is to be imployed by the greater part of Justices at the Qu. Sessions, to such charitable uses as are set downe in the statute for poore, except it be by them reserved for future pensions. 43 *El.c.3.*

Star-chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of Peace. *Lamb. 175.*

Stolne goods.

After attainer upon evidence by the owner, the stolne goods are to be restored to the owner by writ of restitution awarded by the Justices before whom the attainer was. 21 *H.8.c.11. Lam. 586. Dal. 306. Cro. 191.a. Vide* Restitution of stolne goods.

Stewards of Courts.

Stewards of the Sheriffes turne, Leer, or Pypowders, cannot grant surety of the Peace unlesse it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a court Baron cannot doe. *Lamb. 14. Dal. 2. 10 H.6.c.7. Br. Leet 36.*

Stock

The parishioners, and in their default the Churchwardens and Constables are to asseſſe the tax imposed upon the parish by the Justices at Easter Sessions, towards the reliefe of the prisoners in the Kings Bench, Marshalsey, Hospitals, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may asseſſe the same; and the same Justice of Peace or any other Justice of peace in that limit, in default of the Churchwardens and Constables, may levie the same by distresse and sale of the offenders goods, rendring to the party the overplus, and in default of distresse may commit such persons without bayle till they pay the same. 43 *El.c.2. Dal.* 139.

In all taxations observe these rules. *Dal. ibid.*

1 The most reasonable taxation of land is by the yearly value, not the quantity.

2 He that occupieth lands in his owne hands in severall parishes, shall be charged in every parish proportionably for his land there.

3 The farmer shall be rated for the land, and not the lessor.

4 A man is not to be rated for his farm-rents, for that the occupier of the lands is chargeable for the same.

5 By goods in most cases a man may be rated, as well as by lands, but not both by goods and lands.

6 A man shall be charged for goods onely in that towne where the goods be at the time

time of assessment : the Constable and major part of the parishioners, upon warning given in the Church, may make such taxations by law. *Co. 5, 67. Br. Quin. 4. & 6. Dal. 140.*

The like may be done by the Churchwardens and the greater part of the parishioners for Church-charges. *Dal. ibid.*

If the greater part will not meet, the officers and such as will meet may tax. *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia*. *Dal. 140. Vide Taxations.*

Subsidie.

Upon prooffe before two Justices of Peace that a subsidy man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam. 336. Dal. 141.*

Suggestion, *vide* Information.

Summons of the Sessions, *vide* Sessions.

Sunday.

! All persons shall diligently and faithfully resort to their parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to abide orderly and soberly during

ring the time of Common-prayer, preaching, or other service of God, or lose 12. pence for every offence to be levied by the Churchwardens there, to the use of the poor, by way of distresse, 1 *Elc. 2. Dal. 105.* though hee be Popish recusant convict or not convict. *Ibid.*

If any Subject doe not resort and repaire every Sunday to some Church or Chappel, or some usuall place appointed for Common prayer, and there heare divine Service, according to the statute, 1 *Elc. 2.* it shall be lawfull for a Justice of Peace of that limit, upon prooffe by confession of the party, or oath of wittnesse, to call the party before him; and if he or they make not a sufficient excuse, to the satisfaction of the said Justice, then to give warrant to the Churchwardens of the said parish under his hand and seale, to levie 12. pence by distresse to the use of the poore for every default; and for want of distresse, to commit the offender to prison; every offender to be called in question within one moneth after the offence. 3 *Jac. cap. 4. Lam. 418.*

None punished according to the branch of the statute of 3 *Jac. cap. 4.* shall be punished by 1 *Elc. 2.* for the same offence. 3 *Jac. c. 4.*

There shall be no meeting, assemblies or concourse of people for any sports or pastime out of their own parishes on the Lords day; nor Bear-baiting, Bul-baiting, Interludes, common-playes, or other unlawfull exercises within their owne parishes, upon forfeiture of 3. shillings 4. pence to the use of the

the poor, upon view of one Justice of peace, confession of the party offending, or oath of one witnesse, to be levied by warrant of the said Justice under his hand and seale to the Constable and Churchwardens; in default of distresse, the offender to sit in the stocks three houres. The offender to be questioned within one moneth. *1 Car. c. 1. Dal. 63.*

Carriers, waggoners, waynmen, drovers, shall not travell with horse, wagons, carts, or cattle upon Sunday, upon pain of twenty shillings for every offence. Neither shall any Butcher kill or sell any victuall upon Sunday, on paine of 6. shillings 8. pence, upon view of one Iustice of Peace, confession of the party, or oath of two witnesses, the penalty to be levied by the Constable or Churchwardens to the use of the poore by warrant of any Iustice of Peace by distresse, or by any that will sue for the same at the Q. Sessions in the same county within 6. months, his reward not to be above the third part. *1 Car. c. 1. Dal. 134.*

Shewing of boots on the Sunday, with intent to sell them, loseth 3. shill. 4. pence, and the value of the boots. *1 Jac. c. 22. Lam. 466.*

Supersedeas.

Supersedeas is sufficient, though it neither name the sureties, nor containe the summe wherein they are bound; but it is better if it doe both. *Lam. 96. Dal. 172.*

Supersedeas delivered to the officer, if he urge new sureties, the party may refuse; and
if

if he be committed, he may have his action.
Lam. 99. Dal. 172.

Supersedeas out of the Chancery will discharge surety of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Iustice of peace, and an attachment lyeth against him if he surcease not, and he may be imprisoned and fined for it. *Lam. 99. Dal. 172, 173.*

Supersedeas received by a Iustice of Peace out of an higher Court, he should forbear to make any warrant, or if one be made, to send out his *Supersedeas* to the Sheriffe or other officer to desist to put it in execution.
Lam. 99. Dal. 172.

Supersedeas out of the Chancery is to be certified at the next Sessions, together with the recognisance for the Peace; if the *Supersedeas* doe testifie that he hath found surety in the Chancery onely unto a certaine day, which day is after those Sessions if the *Supersedeas* come to his hands after his recognisance taken. *Dal. 173. Lam. 113.* for peradventure the recognisance was broken before the *Supersedeas* purchased.

Supersedeas for the good abearing, *quare* if it may be granted by a Iustice of Peace, *Lam. 123. Dalt. affirmeth it, 197.*

A *Supersedeas* made by a Iustice of Peace, and returned under his seale, is a sufficient record to prove a recognisance taken for the Peace, and warrant to call the party bound, and if he make default, to record the same.
Lam. 97.

If a Iustice of P. will by a *Supersedeas* discharge

charge a Precept for the Peace awarded by another by vertue of his office and not by *Supplicavit*, the recognisance would be taken according to the forme of the Precept. *Lam. 96. Dal. 172.*

Certiorari to remove a record is in it selfe a *supersedeas* to the Iustices, yet the party may have a *Supersedeas* to the Sheriffe that he arrest him not upon the Iustices record. *La. 515*

Whether the Iustices *ex officio* after a *Certiorari* ought to award their *Supersedeas*, to stay proceeding upon the record, *quare Lam. ibid.*

An exigent awarded against one indicted of a trespassse before the Iustices of Peace, may be stayed by *Supersedeas* out of the Chancery, upon surety found there to appeare at the day in the Writ, though he be taken upon it. *Lam. 526, 527.*

So by *Supersedeas* granted by two Iustices of Peace, one being of the Quorum, testifying that he hath found sureties, *de fine assidendo. Lam. ibid.*

Yet *Dal.* and *Cro.* say, by one Iustice of Peace. *Dal. 319. Cro. 234. a.*

If a *Supersedeas* be directed to the Iustices of Peace and Sheriffe, the Iustice to whose hands it shall be delivered, may keep it, and deliver the libell to the party. *Dal 173.*

Supersedeas granted for the Peace or good behaviour out of the Chancery or K. Bench, is void, unlesse it be upon motion in open Court, and upon sureties of five pounds in lands, or ten pounds in goods in subsidie, and unlesse it appear to the Court that such proces of P. or good behaviour is prosecu-

«*ted*»

as ted against the desirer of such *Supersedeas*
as *bona fide* by some grieved in that court out
as of which the *Supersedeas* is desired. 21 Jac.
as c.8. Dal.174.

Whether the party bound, sending the *Supersedeas* to the Sessions, be discharged of his appearance there, *quære* Dal.173. Lam.113. the presidents are, that the party appeared and prayed allowance, &c.

Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it, Dal.186.

The Justice that receiveth the Writ, may make the Warrant to the Constable or other partie indifferent; and if he refuse to find sureties, to carry him to prison. Dal.186.

The party attached can be bound onely before him that sent out the Warrant. Dal.186.

The Justice is to execute the *Supplicavit* as it directeth. Dal.187.

If the summes be left to discretion, it is safe to take good summes. Dal. *ibid*.

After sureties taken, the Justice may make him a *Supersedeas*. Dal.187.

The Justice needs not returne the *Supplicavit*, nor make certificate untill a *Certiorari* doe come to him. Lam.109. Dal.190.

Supremacie.

To refuse the oath of Supremacy, the first offence is *Premunire*, the second Treason. 5 Eliz. cap.1.

Surety

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Surety of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Judge of record) for the keeping of the Peace. *Dal. 161. Lam. 75.*

Every Justice of Peace may take and command the Peace either as a Judge or a Minister. *Dal. ibid.*

Justice of peace may command surety of the Peace, either of his owne discretion, or at the prayer of another.

In what cases a Justice of Peace may command surety of the Peace by his owne discretion. Dal. 162.

1 One that maketh an affray upon the Justice himselſe, or an assault,

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.

4 Such as in his presence contend onely in hot words.

5 Such as in his presence goe or ride armed offensively, or with unusuall number of servants or attendants. And servants and labourers that beare any weapons contrary to the statute of 12 Ric. 2. cap. 6.

6 Any person by him suspected to be inclined to break the Peace.

7 If the Constable bring one before him that shall threaten to kill, maime, or beate another.

8 If the Constable bring one who in his presence attempted to breake the Peace by drawne

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drawne weapon, striking or assaulting another.

9 Whom the Constable findeth fighting or quarrelling in a house, he may break open the doore, and bring them before a Justice of Peace to be bound.

10 He may make his warrant for such as have made an affray, and binde them to the Peace.

11 If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over.

12 Such as goe or ride armed offensively to faires or markets, or weare or carry dags or pistols charged.

13 Common Baretours. *Dal. 163.*

14 Rioters.

15 Him that standeth bound to keep the Peace, and hath forfeited his recognisance by breach of the Peace; but not till he be convicted, and the forfeiture levied. *Dal. 163.* Yet *Cro. 141.* saith that he may be bound anew if he be onely convict for breaking the Peace.

16 Him that standeth bound if his sureties be insufficient.

Justice of Peace is to send to prison him that refuseth to give sureties, untill he finde sureties. *Dal. 163. Cro. 138. b. nu. 8.*

Justice of Peace may cause one to be arrested to find surety of the Peace against another, and grant a warrant for it, for he might have bound him of his own authority. *Dal. 163.*

6. Justice of Peace may perswade a man to
require

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“require surety of the Peace against ano-
“ther, and grant a Warrant for it: for he
“might have bound him of his owne autho-
“rity. *Lam. 78. Dal. 162, 336.*

At the request of another he may com-
mand surety of the Peace, but must first take
an oath of the party that demandeth the
Peace, that he standeth in feare of his life, or
of some bodily hurt, or to have his house
burnt. *Lam. 83. Dal. 163.*

“Sureties in a recognisance ought to be
“two, and registred in Subsidy, for though
“some may be sufficient which were not as-
“sessed, yet it standeth not well together,
“that he should be bound to the King in 10.
“pound or 20. pound that in subsidy was not
“found worth any thing. *Dal. 175.*

“Justices of Peace in Sessions may exa-
“mine sureties upon oath of their sufficien-
“cie. *Dal. 175.*

Causes to require surety of the Peace.

1 He that is threatned to be hurt in body,
as to be beaten, wounded, maimed, or killed.
Dal. 164.

2 He that feareth another will bear,
wound, maim, or kill him. *Dal. ibid.*

3 He that feareth another will burne his
house. *Dal. ibid.*

4 He that feareth that A. will procure ano-
ther to hurt him in his body, or burne his
house. *Dal. 164.*

5 If a man lie in wait to beat, kill, or hurt
another. *Dal. ibid.*

Quare, if he threaten to burn his goods.

*In what cases a man shall not
have the Peace granted.*

1 To threaten one to imprison him. *Dal.* 164. *La.* 82. *Cro.* 135. a. *Quare tamen.* *Br.* Peace 22.

2 Where one is in feare that a man will hurt his servant, cattle, or other goods. *Dal.* 164. *Cro.* 138. a. *Lam.* 83. but may have a writ out of the Chancery. *Dal.* seemeth to be of the other opinion. 164.

3 Because he is at variance with his neighbour. *Dal.* 164. *Lam.* 83.

4 Where there is no feare of present or future danger. *Dal.* 164. *Lam.* 84.

5 For a battery past: yet a Justice if he see cause, may binde over the affrayers. *Dal.* 165. *Pax Regis* 14.

Justice of Peace may deny to grant surety of the Peace, if it be upon meere vexation; yet if the party will take his oath, it is not safe to deny it. *Dal.* 165. yet afterwards perceiving it to be of malice and for vexation, may binde the party so requiring it to his good behaviour.

*Against whom surety of the Peace
may be granted.*

Against a Knight, or any person under the degree of a Baron. *Dal.* 156.

Against Sheriffe, Coroner, Eschactor, or other officer of Justice. But it is not good to binde them *versus cunctum populum.*

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* *pulam. Dal. 166. Lamb. 80, 81.*

Against any Ecclesiasticall person not doing divine Service in the Church or Churchyard, or other place dedicated to God. *Dal. 166. 50 Ed. 3. c. 5. 1 R. 2. c. 15.*

One Justice of Peace may grant the surety of the Peace against his fellow Justice, though sitting in Sessions. *Cro. 134. b. Dal. 167. Lam. 80.*

One Justice of Peace may demand the Peace against another man. *Lamb. 81. Dal. 167.*

The wife may demand the Peace against her husband, if he threaten to kill her, or outrageously beat her, or have notorious cause to feare it; and the husband may crave the Peace against his wife. *Dal. 167. Lam. 78. Cro. 133. b.*

The Peace may be granted to a feme-covert, or an infant under the age of 14. years, if he have discretion to crave the P. but they must be bound by sureties, and an infant under that age may demand it. *Dal. 167. La. 79.*

A Lunatick may crave the Peace, and have it granted him. *Dal. 167. Lam. 79.*

It may be granted against one attainted either of treason or of felony, or convict of heresie. *Dal. 168. and they may demand it. Lam. 79.*

It may be had against an excommunicate person. *Dal. 168. and an abjured person. ibid.*

It may be had against one attainted in *Præmunire*, and against an alien either made denison, or living in England. *Dal. ibid.*

It may be had against one dumb and blind,
fo

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So against an impotent person. *Dalt.* 168.
Lam. 79.

Against whom the Peace cannot be granted.

1 It cannot be granted against any Nobleman, or Noblewoman. *Dal.* 165.

2 Against one *non sane memorie*, unless he have *lucida intervalla*. *Dal.* 167. *Lam.* 79.

3 Against one borne dumb and deafe; but if he become dumb and deafe, or made blind and deafe accidentally, he may have understanding, and the Peace may be granted to him or against him. *Dal.* 168.

How the Surety of the Peace is to be commanded and executed.

A Justice of Peace may { word,
command the Peace by { writing.
By word.

The party being present in the presence of the Justice of Peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace. *Dal.* 169. *Cro.* 138.b.nu.8. *Lamb.* 84, 85.

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Justice may command the other to finde surety. *Dal.* 169. *Cro.* 138.b. *Lam.* *ibid.*

The Justice in such cases may command the Constable or other knowne officer, or his
P 2 owne

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owne servant being present, to arrest such party to finde surety of the Peace, and may commit to the Gaole such party refusing to find surety. *Dal.Cro.Lam.ibid.*

By writing.

The Justice by precept or warrant in writing under his seale directed to some known officer, or other indifferent person, containing the cause and at whose suit, to the end the parties may provide the sureties, and take them with them. *Lam.87. Dal.170.*

The Justice may make his warrant to bring the party before him, but the usuall manner is to bring the party before the same Justice, or some of the Justices of the County. *Dal.170.*

who may serve the Warrant, vide Warrant.

The Constable is first to acquaint the party with the matter in the Warrant; and if he refuse to goe before the Justice to find sureties, he may arrest him and carry him to the Gaole, without carrying him to the Justice. *Lam.90. Dal.170. Br.Faux Imprif.18.*

If the party yeeld to find surety, the officer is not bound to goe up and downe with him, but may keep him untill he can procure sureties to come to him; if afterward he make resistance, or offer to goe away, he may by his warrant carry him to the Gaole, and set him in the stocks till he can get aid to convey him to the Gaole. *Dal.170. Lam.92.*

The arrest is not justifiable except the Officer do carry him to the Gaole that refuseth to find sureties. *Cro.171.b. Dal.171.*

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The party may goe before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travell out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Justice, rather then to give the election to the delinquent. *Dal. 171. Lam. 94.*

The party comming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to demand them. *Dal. 171.*

If the party refuse before the Justice of Peace to find sureties, the Officer by the first Warrant may commit him. *Dal. 171. Lam. 92.*

The Officer is fineable if he arrest the party, and doe not carry him before a Justice of peace, if he be willing to find sureties; secondly, if upon refusall they arrest him, and doe not carry him to the Gaole. *Dal. 171.*

The party being imprisoned, the Justice of peace may make him his *Liberate*; first, if the complainant die; secondly, if he doe enter surety of the Peace. *Dal. 171.*

If the imprisoned have a suit depending in the common pleas, by some opinions, the imprisoned may be discharged by a writ of privilege. *Quere tamen, Dal. 171. Lamb. 94. Cro. 138. a. nu. 4.*

A sworne and knowne officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required. *Lamb. 89. Dal. 340.*

If Husband and Wife be bound to appeare, and in the meane time to keepe the Peace,

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and the Husband onely appeareth, the recognisance is not forfeited. *Dalt.* 179. *Quare Cro.* 144.b.

Suspicion and suspects of felony.

A suspect of felony ought not to be arrested by a Warrant from a Justice of peace, unlesse he be indicted before; for if the Bailiffe which serveth the Warrant doth suspect him, he may doe it of himselfe without a warrant; and without suspicion the Justices warrant is no warrant. *Lam.* 188. *Dal.* 339. *Cro.* 147.b. 148.b. 197.a. nu. 21. *Quare Dal.* 339. *Br. Faux Impris.* 8.

Suspicion onely without felony committed is no cause to arrest another. *Cro.* 154.a. nu. 28. *Dal.* 331. *Brook ibid.* 1.4.

A felony being committed, every man may arrest suspicious persons that be of evill fame, &c. and if such person make resistance, the other may justifie to beat him. *Dalt.* 345.

The Constable or other person that arresteth one for felony or suspicion, must himselfe suspect. *Dal.* 311, 345. *Cro.* 99.b. nu. 43.

“ In an arrest for suspicion of felony, the
“ party that causeth the arrest must suspect
“ him, and also shew some cause of suspicion:
“ otherwise every man may arrest another
“ for felony done. *Cro.* 99.b. nu. 44. *Dal.* 311.
“ 312. where he maketh a *quare*.

Swans.

Taking away from his owne or another
mans

mans ground Swans eggs of another mans, upon conviction and examination of witnesses is imprisonment for a yeare and a day, and losse of ten pound. *Lam. 446.*

To steale Swans unmarked, if they be *domiti*, and kept in a mans manour or private rivers, is felony. *Dal. 267.*

Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12. pence to the poore, where the offence shall be committed, to be levied by distresse, the offence being proved within 20. dayes, or for default of a distresse to be set in the stocks three houres. 21 *Jac. c. 20.* & 3 *Car. cap. 4.*

“ The Warrant for distresse is to be made
“ to the Constable, Churchwardens, and Overseers of that parish where the offence
“ is committed. 21 *Jac. c. 20.*

The offender being under twelve yeares of age, and not forthwith paying his 12. pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *Ibid.*

Taxations, *vid.* Stock of the shire.

Taxations made for a Common-wealth, as making or mending of bridges, high-ways, causeys, sea-banks, &c. shall be upon all persons though they assent not. *Dal.* 141. *Coke* 5.63. *Br. Customs* 6.

“ A towne is amerced, and by assent of
 “ neighbours every inhabitant is assessed,
 “ and they appoint I. S. to collect it, and,
 “ for non-payment such a day, to distreine :
 “ such a distresse taken by I. S. for rates is
 “ good. *Dal.* 141. *Brook Customs* 6. *Cok.* 5.63.
 “ *Doctor & Student* 74. b.

Tale-bearers, *vide* News.Tanners, *vide* Leather.

Taverne-keeper.

Assignment of such as shall keepe a Taverne to utter wine, is to be made at the generall Sessions, unlessse it be otherwise by especiall grant. 7 *Ed.* 6. c. 5. *Lam.* 614.

Testimoniall.

Testimoniall under the hand of one Justice of Peace sealed, is sufficient to passe in hay-time and harvest-time from one County to another. *Lam.* 190.

In all testimonials and passports, some assured marks of the party, by which he may infallibly be distinguished and knowne from others, are fit to be specified. *Lamb.* 206.

Testi-

Testimoniall for a serving-man turned from his masters service, or whose master is dead, ought to be made by two Justices of Peace. 27 *Elc.11. Lam.331. Dal.127.* maketh a *Quere.*

“None retained in husbandry is to depart without Testimoniall at the end of his terme. 5 *Elc.4. Vide Servants.*

Theft.

Theft is a fraudulent and felonious taking of another mans personall goods, in the absence of the owner, and without his knowledge. *Lam.272. Dal.262.*

Theft is either Grand-larcenie, or Petty-larceny.

Grand-larceny is when goods stollen are above 12.pence, and it is felony of death, except the party be saved by his book. *Dal.263.*

Yet if the goods be of more value, and the Jury find it did not exceed 12.pence, it is not Grand-larceny. *Dal. ibid.*

Petty-larceny is if the goods doe not exceed 12.pence, and is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Justices before whom the party is arraigned. *Dal. ibid.*

For petty-larceny, the Justice of peace before whom the offender shall be brought, is not to punish him, but either to send him to the house of correction, or to baile him. *Dal. ibid.*

Petty-larceny is forfeiture of goods and he attels.

Sixe pence, foure pence, and three pence, being taken by one at severall times from one and the same person, may be put together in one indictment. *Dal. 263. Lam. 273. Stam. 24.*

If two, or more, steale above 12. pence from one, it is felony of death in every one. *Dal. ibid. Lam. 273.*

The manner.

To make an act larceny, there must be first a taking, secondly, a carrying away. *Lamb. 277. Dal. 263.*

Yet it may be felony though the offender came to it by the delivery of the owner. *Lam. 278.*

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony. *Dal. 264. Lam. 278. Cro. 35. b. nu. 4.*

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and embezelleth them; it is felony. *Dal. 264. Cro. 36. a. nu. 13. Lam. 279.*

A Carrier taketh out parcels of the goods to him delivered; it is felony. *Dal. 264. Cro. 36. a. nu. 11.*

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his owne use; it is felony, *Dal. 264. Lam. 278.*

Where, after delivery, the imbezelling is no felony.

A Carrier imbezelling the whole. *La. 278. Cro. 36. a.*

A stranger borroweth a horse, and rideth away.

A Clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keepe.

One delivereth money to A. to pay B.

Felony in servants by force of the statute, 5 El. cap. 10.

Servant of the age of 18. yeares (other then an Apprentice) to whom any money, goods, or chattels, &c. by his master or mistress shall be delivered to keepe, of the value of 40. shillings or above; if he goe away with, or convert the same to his owne use, with intent to steale the same, or to defraud his master or mistress, it is felony, if it be prosecuted within a yeare. *Lam. 279. Dal. 265.*

Wherein are divers cases.

A man receiveth of his master 20. pound in gold to keep, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felony. *Dal. 265. Lam. 280. Cro. 35 b. nu. 6.*

One servant delivereth to his fellow-servant to the value of 40. shillings of his masters goods, and goeth away with it, or converteth it to his owne use; it is felony. *Dal. ibid. Cro. 50. a. Lam. 280.*

A servant maketh a garment of his masters cloth, and goeth away therewith; it is felony. *Dal. 265. Cro. 50. a.*

Quere

Quere of barley converted into malt, or money melted into a piece of metall. *Dal.* 266.

An obligation is delivered unto a servant, and he goeth away with the money received upon the same obligation; it is no felony within the statute of 5 *El.c.* 10. for the master delivered not the money. *Dal.* 265. *Cro.* 35. *b.* nu. 5. 50. *a.*

The servant carrieth his masters wares to market, selleth them, & goeth away with the money, or converteth it to his owne use; it is not felony within the statute of 5 *El.c.* 10. *Dal.* 266. *Cro.* 50. *a.* *Lam.* 280.

A receiver receiveth rents, and goeth away with them, it is no felony, for the statute is, where the master delivereth to keepe. *Dal.* 266. *Cro.* 50. *a.*

I deliver to my servant a horse to ride to market, or money to buy things or pay another, and he goeth away with it; it is no felony at the Common-law, for it was of his masters delivery. *Dal.* 266. *Cro.* 35. *b.* nu. 7. *Quere* if it be not felony by 5 *El.c.* 10.

“ My shepherd selleth my sheep falsly, it is felony. *Cro.* 35. *b.* nu. 9. but *Stamf.* 25. *a.* *è contra.*

A servant keepeth the key of his masters chamber doore, and taketh away above the value of 12. pence, it is felony at the Common-law, for they were not delivered him. *Dal.* 266. *Lam.* 279.

A guest taketh the sheets or other goods of the hoste feloniously into some other roome of the house, it is felony. *Dal.* 266. *Cro.* 35. *a.* nu. 2. *Lam.* 281. *Br. Coron.* 107.

A man feloniously taketh an horse, and is apprehended before he gets out of the close where hee went. *Lam.* 281. *Dal.* 267. *Cro.* 36.a.nu.12.

Not enquirable before Iustices of Peace.

A servant taketh away or spoyleth his deceased masters goods; in default of appearance in the Kings Bench after Proclamation, it is felony. *Dal.* 266. *Cro.* 56. a. 6. 33 H.6. cap. 1.

Of what things felony may be committed.

Of moveable goods, as money, plate, appa-
rell, household-stuffe, &c. so of corne, hay,
trees, fruit, &c. being severed from the ground.
Dal. 267. *Lam.* 273.

Of domesticall things, as horses, mares, colts,
oxen, kine, sheep, lambs, swine, pigges, hens,
geese, ducks, turkeyes, or any other domesti-
call beasts or birds of tame nature: and though
they runne or flie away out of the owners
sight, the detainer is punishable by action.
Dal. 267.

Of wilde nature, young pigeons out of ano-
ther mans dove-house, young hawkes or
herons breeding in Parks or severall grounds,
fishes kept in a trunk or pond. *Cro.* 36.b.nu.22.
Lam. 274. *Dal.* 267. *Stam.* 25 sayeth gofhawks.

Quare of old doves in a dove-house.
Lamb. 274.

So swans marked, and at large, and tame deere marked and domesticall, if the taker know it to bee tame. *Dal.* 267. *Lam.* 275. *Cro.* 36.b. nu. 23.

By statute it is felony to hunt deere, or conies after some sort in park, forrest, or warren, or to take a tame beast or other thing in a park, by manner of robbery. *Vide* 3.E.1.c.20. 1 H.7.c.7. *Lam.* 275. *Dal.* 268.

So to take away or conceale an hawke. *ibid.*

To steale the flesh of tame or wilde fowle dead, is felony. *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wooll off the sheeps backs, or to kill them for their skins. *Dal.* 269. *Cro.* 36.a. nu. 17. *Lam.* 26.

A man may commit felony in taking his owne goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue. *Dal.* 270. *Cro.* 37.b. nu. 42. b. *Stam.* 26.a. *Lamb.* 277. *Br. Coro.* 142. *quare.*

I lend or deliver my plate or goods to another who melteth my plate, or changeth the fashion of my goods; to take them feloniously is felony in me. *Dal.* 270. *Cro.* 37.a. nu. 34. *Lam.* 277.

If a man pursue or take a felon that hath stolen his goods; taketh them and suffereth the thiefe to escape, he is no accessory; for hee may agere civiliter aut criminaliter in initio. *Lam.* 290. *Termes of Lam. Titu. Theft-boote.* *Cro.* 37.a. 45.b. 42.b. *P.R.* 131. *Dal.* 296.

If the party robbed take money, &c. of the thiefe,

thiefe, to the end that he shall not give evidence against him, whereby the thiefe escapeth, hee is accessory to felony of his owne goods. *Lam. 290. Dal. 296. Cro. 41. nu. 5.*

Quere, if a man having made complaint to a Justice of Peace, take his stolen goods againe, and doth not prosecute the matter, whether it make him not accessory, for that he did once *agere criminaliter*. *Dal. 196.*

Of what things felony is not committed.

Things which are reall chattells. *Lam. 275, 276. Dal. 270.*

To cut downe any tree or corne, or pull any apples, or carry them away, *Dal. 270. Lam. 276.* Being cut and gathered for one, and then for another to carry them away, it is felony: or if a stranger cut at one time, and carry away at another time, it is felony, *Dal. 270. Cro. 36. b. nu. 26. Lam. 276.*

Lead upon an house or Church is part of the freehold. *Dal. 270. Cro. 37. a. nu. 33.*

Evidence of a mans land, indenture of lease, or other writings in boxe or out of boxe, cannot bee valued. *Lam. 275. Dal. 270.*

To take away an infant in ward, is no felony. *Dal. 270. Lam. 276.*

Treasure trove or hidden, wrecke of the sea, goods wayved or strayed; for the owner is unknowne. *Lam. 276. Br. Coro. 96. Dal. 270.*

But felony may bee committed by taking
bona

*bona ignoti, or mortui et ignoti, or parochiano-
rum, or of a Church or Chappel, or of a
Corporation in time of vacation. Lam. 276,
277. Dal. 270.*

*What persons are chargeable in
larcenie.*

A woman covert by her selfe, her husband
not knowing thereof, committeth larceny as
principall, if she steale another mans goods ;
or as accessiary, if she receiveth the thiefe that
stole them, or receiveth the stolen goods into
her house, knowing them to be so, or locketh
them up, and the husband knowing thereof,
the law will impute the fault to him, not to
her : but if the husband so soone as he know-
eth it, forsake his house, and her company,
and remaine elsewhere, he shall not be charged
for her offence. *Sta. 26. P.R. 130. Lam. 282.
Dal. 271.*

The husband delivereth goods to a stran-
ger, the wife stealeth them from the stranger ;
it is felony in the wife. *Dal. 271.*

A stranger goeth away with another mans
wife, and against her will carrieth away her
husbands goods, it is felony in the stranger.
Cro. 35. a. nu. 2. P.R. 130. Dal. 271.

A servant stealeth by the compulsion of his
master, it is felony in both. *Cro. 37. a. nu. 37.
Dal. 273.*

Who are not felons.

A wife stealeth by the compulsion of her
husband, it is no felony in her. *Cro. 36. b. nu. 27.*

et 37. a. nu. 36. Lam. 282. Dal. 271. but to doe murder by her husbands compulsion, is felony in both. *Dal. ibid. Cro. 37. a. nu. 38.*

A wife stealeth by commandement of her husband without constraint, *quære Dal. 271. Stam. 26. P. R. 130. Lam. 281.*

The husband and wife together steal goods, it is felony in the husband only. *Dal. 271. Sta. 26. Lam. 282.*

A wife stealeth goods delivered to her husband, it is no felony. *Dal. 272. Cro. 37. a. nu. 35.*

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither. *Dal. 272. Stam. 27. Lam. 282. Cro. 35. a. nu. 2.*

The wife receiveth the husband being felon, and relieveth him, she is no accessary. *Cro. 42. b. nu. 22. Dal. 272. Stam. 26. f.*

An ideot, lunatick, dumb and deafe person, and an infant are chargeable in larcenie after the same sort as they are chargeable in homicide. *Lam. 282. Dal. 273, 295. Vide Manslaughter.*

Threatning.

He that shall be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the Peace against the other. *Dal. 164. Lam. 82.*

If a man be threatned to have his goods burned, *quære* if he may have the Peace. *Dal. 164. Lam. 82.*

To threaten to imprison a man, is no cause
of

of the craving of the Peace; for the wronged may have his action of false imprisonment, or his Writ *de homine replegiando*. *Dal.* 164. *Lam.* 82, 83. *Quere.*

To enter peaceably into an house, &c. and put out B, and presently threaten and say to B, that if he doe come thither againe to enter, he will kill him; this seemeth a forcible entry: and if B, come againe to make his entry, then if the other shall threaten to kill him, if he entreth, it is a forcible detainer. *Dal.* 201. *Cro.* 70. b. nu. 39.

Tile-making.

One Justice of Peace may enquire, heare, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and assesse the fine therein limited, and may appoint men skillfull to be searchers. *Quere tamen* whether one may doe it alone, *Lam.* 193, 194. *Dal.* 144. 17 E. 4. c. 4.

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tryed from stones, veines, and chalk, and not to be wrought before March following, or lose double the value to the buyer. 17 E. 4. c. 4. *Lam.* 468.

Plain tile put to sale, is to be 10. inches and an halfe long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a hundred. 17 E. 4. c. 4. *Lam.* 468.

Roofe tile must be 13 inches long, half inch and

Tile-making. 331

and halfe quarter of an inch thicke, conveniently deepe, or lose 6 shill. & pence an hundred. *ibid.*

Gutter tile must be 10 inches and a halfe long, of convenient breadth, depth, and thicknesse, or lose two shillings an hundred. *Ibid.*

Searchers of tile; for every default in searching, lose 10. shill. *ibid.*

Tipling.

The Inne-keeper, Victualler, or Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10 shill. to be levied by
“distresse, by warrant from one Justice of
“Peace, and to be sold after 6 dayes; for want
“of distresse to bee sent to the gaole till payment be made. 1 *Jac. c. 9. 7. Jac. c. 10. 1 Car. c. 4. Lam. 192.*

“The Oath of Constables, Churchwardens,
“Headborowes, Tithingmen, and Alecon-
“ners, are to be enlarged, and extend to pre-
“sent all offences against the statutes of 1 *Jac. c. 9. and 4 Jac. c. 5. 21 Jac. c. 7.*

Any continuing tipling in an Inne, Victu-
alling-house, or Alehouse, shall forfeit 3. shill.
4 pence to the poore, or not being able to pay
the same, shall sit in the stocks foure houres.
1 *Jac. c. 9. 7 Jac. c. 10. 21 Jac. c. 7. vide Alehou-
ses. 4 Jac. c. 5.*

Tithes.

Two Justices of Peace, one being of the
2409112

Quorum, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to bee attached and committed to ward, till hee finde surety by recognizance to obey the sentence and proceſſe of the Judge, 27 H.8. c.7. 27 Eliz.c.11. Lam. 357. Dal. 141.

Upon complaint in writing by an Ecclesiastical Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, two such Justices of Peace may cause the party to be attached and imprisoned, till hee finde surety to performe the sentence, 32 H.8.c.7. Dal. 144. Lam. 357. Cro. 197. a. nu. 22.

Toll.

Miller taking Toll by heaped measure, is to bee fined. 31 Ed.1. de pistoribus. Lam. 461.

Miller taking excessive Toll, (*viz.*) more then the twentieth, or twenty fourth part of the Corne according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall bee grievously amerced. 51 H.3.c.3. Cro. 92. a.

A Miller shall have Toll of a bushell of hard Corne, three wine pintes, and of a bushell of Malt but one pinte, if the Corne be brought to the Mill; for that a Mill will grinde three bushells of Malt as soone as one bushell of hard Corne, Cro. 92. a. *Quere*, for 51 H.3.c.3. doth not expresse so much. *Vide* Dal. 151.

Toll-gatherer for horses taking above a penny

penny for one contract or entring the parties names, and that in the same place onely where the market or faire is, and between ten of the clock in the morning and Sunne setting, loseth ten shill. and is to answer the party grieved.

2 & 3. *P. & M. c. 4. Lam. 471, 472.*

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testifie he knoweth the sellers name, mystery, and dwelling place, and there to enter them with the true price of the horse, or loseth 5 l. 31 *Eliz. c. 12. Cro. 91. a. Lam. 472.*

Any giving testimony to the toll-taker, unless he doe truly know the same, loseth five pound. *ib.*

“A thiefe selleth a stolen horse, by a false name, and is so entred into the Toll-book, such mis-naming maketh the sale voyd. *Dalt. 74.*

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying two pence for the same, loseth 5. l. 31 *Eliz. c. 12.*

Transportation.

Every man may transport corn, it being at the prices following, except it be forbidden by proclamation. 1 *Fac. c. 25.* 21 *Fac. c. 28.* 3 *Car. c. 4.*

Wheat	} a quarter	{ 26 shill. 8 pence.
Rye and Pease		
Barley and		{ 15 shill.
Oats		
		{ 14 shill.

Every

Every subject borne within the Realm, when the prices of corne at the times, places, and havens when and where the said corne shall be bought, shipped or laden, exceed not the rates following, may carry and transport of his owne, and buy to sell againe in markets, or out of markets, and to keepe, or sell, or carry, or transport any of the said corne from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty, in English vessels, or carry or sell in other places within the realme, except where such transportation shall be forbidden by the Kings Proclamation. 3 Car. c. 4.

Wheat	} a quarter	32. shill.
Rye,		
Pease and		20. shill.
Beans		
Barley		16. shill.

Every man may transport any beere, when the price of a quarter of Malt exceedeth not 16. shillings.

Traverse.

Traverse is the denying of the chiefe matter in an indictment. *Lam.* 540.

Traverse upon a forcible entry or detainer found upon presentment, *quare* before whom the traverse is to be made or tendred. *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Justice of Peace must make the restitution by the statute of 8 H. 6. or else deliver or certifie the presentment in the Kings Bench. *Lam.* 158. *Dal.* 60.

Traverse

Traverse lyeth where one Just. of P. alone will take upon him to record a riot that he seeth, and the party shall not be concluded thereby. *Lam. 182.*

Traverse of an indictment of felony or treason is not usuall. *Lam. 541.*

Traverse of an indictment may be before the Justices of Peace. *Lam. 542.* If the Court where the presentment is found cannot award proceſſe thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed. *Lam. 542.*

That Court that may award proceſſe *ad respondendum* upon an indictment, may take a traverse of it. *Lam. 543.*

Presentment of bloodshed found in the Sheriffes turne, and sent to the Justices of Peace, cannot be traversed before the. *La. 542.*

One of the enquests presents himselfe, it is not traversable. *Lam. 543.*

“Where Proceſs *ad respondendum* goeth out upon an indictment that is traversable, the party may offer and have his traverse: *Lam. 542, 543.*

“*Quare* whether a man be admitted to traverse a presentment except it charge him in the freehold. *Lam. 543.*

Travelling beyond the Seas.

Officer of Ports, or owner of a Vessell, suffering any woman or child under 21. years of age, except Saylers shipboyes, Apprentices or Factors of Merchants in their trades, to goe, or carrying any of them beyond sea without license of the King or sixe of the Privy Council

sell under their hands; such Officer of the Ports forfeiteth his Office and all his goods, and the master of the vessell his vessell, and imprisonment without bayle for twelve moneths, and loseth also all his goods.

3 *Jac.cap.4.*

Any subject going beyond the seas to serve any forraine State, not taking the oath of allegiance before the Controller or Customer of the Port, or either of their deputy or deputies before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every yeare, or lose 5*l.* for every oath not certified. 3 *Jac.cap.4.*

Any Gentleman, or of an higher degree, or Captaine, or other officer in the army before his going beyond sea to serve any forraine Prince or State, must be bound by the Controller or the Customer of the Port, with two sureties allowed by the Officer, unto the King in 20. pound, with condition not to be reconciled to the Pope, nor to practise any thing against the King, but knowing any thing to reveale it: the same bond to be by them registred and certified into the Exchequer once every yeare, or lose 5. pound for every default.

3 *Jac.cap.4.*

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without license of the King or sixe of the Privie Counsell, (whereof the principall Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, untill he or they being 18. yeares old or above,
take

take the oath of Allegiance before one Justice of Peace of the County where the Parents dwelt or dwell: and in the meane time the next of kin, being no Popish Recusant, to enjoy them till he shall conforme to take the said oath of Allegiance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the meane profits, and in reasonable time to make payment thereof. And the senders lose 100. pound, one third part to the King, another to the suer, another to the poore. 3 Jac. 6. 5.

Vide Transportation.

Traveller.

Inne-keeper or Alehouse-keeper refusing to lodge a traveller, Justice of Peace, or Constable may compell him. *Quarehow*, viz. to present the offence at the Assises or Sessions. *Dal. 28. Br. Action sur le case 76.*

Sir *James Lee* delivered that the Inne-keeper or Alehouse-keeper may for the same be indicted, fined, and imprisoned, or the party grieved might have his action. *Dal. 28.*

Treason.

Treason is a grievous offence done or committed against the King in his person, the Queene his wife, his Children, Realme, or authority. *Dal. 227.*

As,

To compasse the death of the King, Queen his wife, or of their eldest son and heire; or to intend any of their deaths, though it be not effected. *Dal. 227.*

Q

To

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sons wife. *Dal. 228.*

To levy war against the King in his realm. *Dal. ibid. Br. Treason 24.*

To conspire to levy war against the King. *Dal. ibid.*

To conspire with a Governour of another countrey to invade the Realm. *Dal. ibid.*

To kill one that is sent on the Kings message. *Dal. ibid.*

To encounter in fight, and kill such as be assisting to the King in his wars, or come to help the King. *Dal. ibid.*

To aid the Kings enemies in his Realme. *Dal. 228.*

To counterfeite the Kings great Seale, Signe-Manuall, Privy-signet, or Privy-Seale. *Dal. 229.*

To take an old seale and put it to a new patent, *quare* whether treason or misprision. *Dal. ib. Sta. 3. C. Br. Treas. 3.* And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seale, and so get it sealed. *Dal. ibid.*

To counterfeite the Kings coyne, or any coyne currant within the Realme. *Dal. 229.*

To bring in any false money, knowing it to be false. *Dal. 229. 1. C. & 2. P. & M. c. 3.*

“ To clip, wash, and lighten or falsifie any coyne current within the Realm. *Dal. ibid.*

“ To coyne money not having authority. *Dal. ibid.*

If he which hath the Kings warrant to coyn,
doth y

doth coyne money in England, Ireland, or
elsewhere lesse in weight then the ordinance,
or coyneth false metall. *Dal. 229. Br. Treas. 19.*

*All counsellors, procurers, consenters, or aiders
of any the forenamed Treasons, are within the
purview of the statute 25 Ed. 3. for in treasons
all offenders are principall. Dal. 230.*

“Counterfeiting gold or silver not the
“proper coyn of this Realm, is misprision of
“treason. 14 *El. c. 3.*

To kill the Kings Chancellour, Treasurer,
Justice in Eyre, of Assise, of Oyer and Termi-
ner, being in his place, and doing his office, is
high treason. *Dal. 230.*

To extoll the authority of the Bishop of
Rome within any of the Kings dominions,
and the procurers, counsellors, ayders and
maintainers thereof, the first offence is *Præ-
munire*, the second treason. 1 *El. c. 1. 5 El. c. 1.*
Lam. 411. Dal. 231.

So to bring over any bookes that shall
maintain, set forth or defend such authority,
and the readers and hearers that shall justifie
them. *Dalt. 231.*

So deliverers of such books to others, with
allowance and liking of the same. *Dal. ibid.*

So the printers and utterers of such books
be all within the meaning of the statute. 5 *El.
c. 11. Dal. ibid.*

Refusing the oath of Supremacy, the first
offence is *Præmunire*, the second offence trea-
son. 5 *El. c. 11. Dal. 205. Lam. 410.*

To obtaine from Rome, or by any authori-
ty from thence any Bull or writing to ab-
solve and reconcile such as will forsake their

obedience to the King, and yeeld it to the Pope, or give or take absolution by colour of such Bull, or publish, or put in ure such Bull. 13 *El.c.2.* *Dal.231.* *Lam 226.*

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsell, or aid them that doe it, is treason. 23 *El.c.1.* 3 *Jac.c.4.* *Lan.220,226,412.* *Dal.232.*

To be willingly absolved, perswaded, withdrawne, or reconciled to promise such obedience, or to procure, counsell, aid and maintaine the same, is treason, except within sixe dayes after their return into the Realm, they submit according to the statute. 3 *Jac.c.4.* *Dalt. ibid.*

For Jesuite, priest, or other Ecclesiasticall person (made by authority from the Pope) to come into, or remaine in any of the Kings dominions, contrary to the statute 27 *El.c.2.* is Treason.

To compasse the death of an usurper of the Crowne, is Treason, for which the offender may be arraigned in another Kings time. *Br. Treason 10.* *Dal.227.*

To intend to deprive, depose, or dis-inherit the King, or say he will be King after the King dyeth. *Dal.227.*

To set at large unlawfully any committed for Treason, is Treason by the Common-law. *Dal.229.*

One imprisoned for felony breaketh prison,

son, whereby a traitor escapeth; it is Treason in him by the Common-law. *Dal.* 229. *Cro.* 35. a. nu. 5.

Voluntarily to suffer one to escape that is committed, or onely under arrest for Treason, is Treason by the Common-law. *Stam.* 32. *Dal.* 229.

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26. *H.8.ca.* 13. 5 *Ed.* 6. *ca.* 11. his lands entailed, and his wife her dower, saving in certain cases. *Dal.* 234.

Judgement and condemnation of a woman in case of Treason, is to be drawn on a hurdle to execution, and burned. *Stam.* 182. *Da.* 234.

Treasurer.

“Treasurer for reliefe of Gaoles is to be
“chosen at Easter Qu. Sessions by the more
“part of the Justices of Peace to be of 5. l.
“in lands or 10. l. in goods in the last sub-
“dy, to continue but for one yeare, and then
“to give up his account at Easter Sessions
“to his successor. 43 *El.c.* 2.

“The elected refusing the office, or to give
“reliefe or accompt, is to be fined by the
“Justices in Sessions, or by the Justices of
“Assises by discretion, but not under 3. l.
“43 *El.c.* 2.

“Treasurer for Gaoles is to pay over to
“the Lord chiefe Justice, and to the Knight
“Marshall quarterly such summes as the
“Justices of Peace doe appoint. 43 *El.c.* 2.

“Treasurer for maimed soldiers is to be
Q3 elected.

« elected by the more part of the Justices at
 « Easter Sessions, and (not being a Justice
 « of Peace) to be 10. l. in lands or 15. l. in
 « goods in the last subsidy, to continue but
 « one yeare, and for refusing the office,
 « or misdemeanors, &c. to be fined by the
 « more part of the Justices, but not under 5.
 « l. 43 *El.c.3.* and to give up his accompt to
 « his successor, within ten dayes after the
 « Sessions.

« The Churchwardens are ten dayes be-
 « fore every Qu. Sessions to pay over to the
 « High-constables the taxation for Gaoles.
 « 43 *El.c.2.* And the Churchwardens and
 « pety Constable at the same time to pay to
 « the High-constable the taxe for maimed
 « souldie s. 43 *El.c.3.* And the High-consta-
 « bles are to pay the same to the Treasurers
 « at the next Q. Sessions. 43 *El.c.2. & 3.*

« If default of payment be made by the
 « High-constable, he doth incur the penal-
 « ties, *viz.* of 20. s. a time for the Gaole-
 « money, 43 *El.c.2.* and of 40. s. for souldi-
 « ers money, *c.3.* And if default be in the
 « Churchwardens, for gaole money 10. s. a
 « time. If for soldiers money, the Church-
 « wardens and pety Constables lose 20. s. a
 « time. 43 *El.c.2. & 3.* The said forfeitures
 « to be levied by the Treasurer by distresse
 « and sale of the offenders goods, and taken
 « in augmentation of the stock.

Trespasse, *vide* Hedge-breakers.

Tryall.

As well Noblemen as Gentlemen in cases
of

of Felony or Treason, or misprision of Treason, are to be tryed by their equals. *La. 539.*

In Riots, Routs, unlawfull assemblies and forcible entries, Nobility shall be tryed by common jurours. *Lam. 539.*

All forraine Pleas tryable by Jury, and pleaded by any indicted of Treason, Murder or Felony, shall be tryed in the county where the party is arraigned, and by Jurors of that county. *22 H. 1. c. 14. 32 H. 8. c. 3. Lam. 552.*

Aliens indicted of Felony or Murder, must be tryed *per medietatem lingue. Lam. 554.*

Peere of the Realme indicted of Treasons upon the statute of *3 Jac. c. 4.* is to be tryed by his Peeres. *3 Jac. c. 4.*

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tryed within the Realme. *35 H. 8. c. 2. Dal. 235. Co. Inst. 261. b.*

“ He who is no Lord of the Parliament,
 “ being arraigned for Treason or Felony,
 “ shall be tryed by Knights and others, and
 “ not by Lords of the Parliament. So shall
 “ Bishops by reason that they are Lords of
 “ the Parliament by their office, and not in
 “ respect of their Nobility. *Cro. 110. b. nu. 6.*
 “ *Stamf. 153. A.*

Turne of the Sheriffe.

Indictment at the Sheriffes Turne to be certified to the Justices at the Qu. Sessions. *Vide Certificate.*

Sheriffes Turne to be holden within a moneth after Easter, or within the moneth

after Michaelmas. *Lamb.* 504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turne being inrolled and indented, are to be levied by the Sheriffe to the use of him that was Sheriffe at the time of presentment. 1 *Ed.* 3. cap. 7. *Lam.* 585.

V Agabonds, *vide* Rogues.

Venire facias.

Justices of Peace may award a *Venire facias* against the enditour, to amend a Bill upon the first oath. *Lam.* 507. 8 *H.* 5. c. 8. *Stam.* 97.

Justices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no. *Lam.* 551.

Verdict.

• The Jury in case of felony may give a
• speciall verdict, if they will, and the court,
• upon examination of the matter, may ad-
• judge contrary to the verdict. As, The Ju-
• ry found that *A.* killed *B.* *se defendendo*, and
• upon examination of the matter, the court
• adjudged it to be manslaughter against the
• verdict. *Cro.* 114. a. nu. 1.

• Though the indictment specifie the
• goods to be above 12. d. yet the Jury may
• say that the goods were worth but 8. d.
• upon which verdict it shall be taken as
pety

“ pety lareeny. *Cro.* 114. a. nu. 2.

“ A inan is arraigned of murder, and by
 “ the Jury it is found but Manslaughter, it is
 “ good, *Cro.* 114. a. nu. 3.

Vessels.

Vessels of ale and beere are to be made of
 seasoned wood, with the marke of him that
 scaled it. *Lam.* 460.

Every barrell for beere and every barrell
 for ale, and so every lesser vessell by 32 *H.* 8.
 c. 4. ought to containe under paine of 3. shill.
 4. pence for each default:

Beere	{	Barrell 36.	}	Ale	{	32	}	Gallons.
		Kilderkin 18.				16		
		Ferkin 9.				8		

But now by the statute 1 *Jac.* c. 9. ale and
 beere shall be sold by retaile by one and the
 same measure, namely by the ale-quart. *Cro.*
94. b. Dal. 152.

Vide Assise of Bread and Beere.

Wine	{	Tunne 252.	}	Gallons. <i>Dal.</i> 152.
		Pipe 126.		
Oyle	{	Hogshead 63.		
		Barrell 32. and halfe.		
Hony	{	Rundlet 16. and halfe.	}	

But *Crompton* 94. b. saith, *Popham* chiefe Ju-
 stice saith that the measure of wine and ale
 should be all one, and that so it was agreed by
 the Justices according to the standard of
 the Exchequer. But note, saith *Crompton*
 there, that the ale-quart is greater, for that
 the froth of the ale amounts a little, and
 wine doth not froth, and therefore there

should be a nick in the top of the wooden kan, where the measure should be, to which nick the ale should come. *Cræ. 94. b.* And so Mr. *Wallis* Clerk of the Qu. market told him, January 25. 1588.

Herring the barrell, halfe barrell, firkin, shall be of the same content: that ale is, namely the barrell 42. Gallons, &c. 13 *El. c. 11. 11. H. 7. c. 23. Dal. 153.*

Sope and Butter shall be of the same content with ale, and the empty barrell not to be in weight above 26. pound, and for the other vessels in proportion. 23 *H. 8. c. 4. Dal. 151. Lam. 461.* The penalty is 3. shill. 4 pence for each one.

Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victuall doe sell at unreasonable rates, and not for moderate gaine, they lose double value. *Lam. 454. 23 E. 3. c. 6. & 13 R. 2. c. 8.*

Brewer selling drinke at higher prices then have beene appointd by the Justices of Peace, loseth after the rate of 6. shil. a barrel. 23 *H. 8 c. 4. Lam. 455.*

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cookes, Frailerers, or any mysterie, or any of them, not to sel but at prices agreed betweene them, the first offence 10. pound, or 20. daies imprisonment; the second, 20. pound or Pillorie; the third, 40. pound, or lose an care. 2 *Ed. 6. c. 15. Lam. 455.*

To

Victuals and Victuallers. 347

To sell swines flesh mezelled, or flesh that dyed of the murraine, or other corrupt victuall. *Stat. de pistoribus, cap. 7. 51 H. 3. Lam. 455.* is fineable.

Any, except victuallers in their houses, buying to sell againe by retaile butter or cheefe, unlesse it be in open Faire or Market, loseth double value. *3 Ed. 6. cap. 21. 14 Eliz. cap. 11. 27 Eliz. cap. 11. Lam. 456. 1 Jac. cap. 25.*

Processe upon the statute of *23 H. 6. c. 13.* against victuallers is Attachment, *Capias*, and Exigent.

Brewer, or other selling of ale or beere unto any unlicensed Alehouse-keeper, other then for necessary provision for his owne household, loseth after the rate of 6, shillings 8. pence a barrell, one moiety to the poore, the other to the informer to be heard and determined at the Qu. Sessions. *4 Jac. cap. 4. Lam. 460.*

The officer levying the penalty of *4 Jac. c. 4.* and not delivering the moiety to the Churchwarden or Overseers of the poor, or not distributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. *4 Jac. c. 4.*

Victualler is within the statute *1 Jac. c. 9. 4 Jac. c. 5. 1 Car. c. 4.*

Vide Transportation, Alehouses, Tipling.

Undersheriffe.

Custos Rotulorum, or two Justices of the Peace,

Peace, one to be Quorum, may give unto Undersheriffes before they exercise their office, the oaths of 1 *Eliz.* of supremacy, and 27 *Eliz.c.12.* touching their office; so of their deputies and Clerks, or any other meddling with returning of writs or execution of proccesse into any Court of record. So of Bayliffs, any of them executing their office before such oathes taken, lose 40. pound. 27 *Eliz.c.12.* *Lamb.356,432,433.*

Undersheriffe or his Clerk or deputy doing any thing against their oath, lose treble damages to the party. *Lam.433.*

Unlawfull games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cayls, tennis, casting the stone, football, or other unlawfull game now invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such plate, and may imprison them untill they find sureties by recognisance no longer to use such house, game, play, alley or place. 33 *H.8.c.9.* *Lamb.191. Dal.64. Cro.79.a. 131.a. 196.a. 197.b. Lam.349,479.*

Justice of peace may arrest and imprison such players till they be bound no more to play at such game. *Lam.192. Cro.172.ab. Lam.349,479. Dal.63.*

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman,
other

Unlawfull games. 349

other then of a Nobleman or of him that may dispend 100.l. by the year, playing within the precinct of his masters house, shall not play out of Christmas at any unlawfull game, or in Christmas out of the house or presence of his master. 33 H.8.c.9. Lam.479. 20.shil. every time. *Quere* if other games besides those prohibited 33 H.8. c.9. be unlawfull, as the morrice and other open dances, bearbaitings, common-playes, and fencings, which seeme to be prohibited by 39 Elca.4. Dal.63. 1Car.c.1.

All offences against the statute of unlawfull games may be heard and determined at the Qu. Sessions, Assises, or leet within which they shall happen. Lam.614. *Vide plus Sunday.*

Unlawfull assemblies.

An unlawfull assembly is of the company of three or more persons disorderly coming together, forcibly to commit an unlawfull act, as to beat a man, or enter upon his possession, or the like. Lam.175. Dal.221. P.R.25. Cro.61.a.nu.3.

First, an unlawfull assembly it is, onely to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it be done or no, is a Rout. Thirdly, to execute such a thing, is a Riot. *Dalshid.* Lam.175, 176. Cro.61.a.nu.3.

In an unlawfull assembly, Rout or Riot,
two

350 Unlawfull assemblies.

two things are common, and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actuall and expresse violence to affright peaceable men, or imbolden light and busie bodies by their examples. *Lam. 176, 177.*

There be three degrees of seditious and riotous assemblies: the first from three to twelve; the second of 12. or more; the third of 40. and upward. *La. 183. 1 E. 6. 17.* Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance. *La. 184.*

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24. houres after reveal the same. *Lam. ibid.*

vide Forcible Entry, Riots.

Usury.

Corruptly to contract for more then 8. pound in the hundred, for forbearance for one yeare, loseth treble value of the moneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21. *Jac. cap. 17.*

Scriveners taking above five shillings for procuring 100. pound, and for a bond above 12. pence, forfeit 20. pound. *Ibid.*

Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distresse (for insufficiency) are to be outlawed. 8 Ed. 3. c. 5. *Lam.* 522.

After Utlawry the Justices of P. can award no proceſſe, but must certifie the Utlawry into the Kings Bench, *Lam.* 521, 522.

One outlawed of felony before Justices of Peace doth appeare and saith he was in the Kings service beyond sea under such a Captaine, or in prison in such a County; the Justices cannot write to the Captain or County. *Lam.* 552.

Wages.

Rates of wages of servants and labourers are to be made by the Justices of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and scales, and after it shall be lawfull for the Sheriffe of the said County to cause proclamation to be made of the severall rates so rated in so many places of their severall authorities, as to them shall seeme convenient, and as if the same had beene set downe printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery. 39 El. c. 12. 1 Jac. c. 6.

Any giving wages contrary to the rates

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appointed and proclaimed, loseth 5. pound.

5 *El. c. 4.* 1 *Jac. c. 6.* *Lam. 474.*

Every Justice of Peace (not having lawfull excuse testified by oath of one that is in subsidy 5. pound, &c.) that shall not assemble at Easter Sessions, or within 6. weeks after, to rate the wages of servants, &c. shall lose 10. pound. 5 *Eliz. cap. 4.* *Lam. 632.*

Any having authority by 5 *Eliz. c. 4.* to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, week, moneth or yeare, or by great. 1 *Jac. cap. 6.*

No penalty for not certifying the rates of wages into the Chancery, according to the statute of 5 *El. c. 4.* if they be duely proclaimed. 1 *Jac. c. 6.*

Rates of wages ingrossed in parchment are to be kept by the *Custos Rotulorum*; if in a Corporation, amongst the records thereof. 1 *Jac. c. 6.*

Any two Justices of Peace may imprison without bayle the master for ten dayes for giving, and the servant, workman or labourer for 21. dayes, for taking greater wages then are assessed by the Justices of Peace, and Proclamation thereof made in that country. 5 *El. c. 4.* *Dal. 80.* Every retainer, promise or payment of wages, or other thing whatsoever, contrary to the true meaning of 5 *El. c. 4.* and every writing and bond for that purpose is utterly void. *Dal. 80.*

Justice of Peace may have his action of debt against the Sheriffe for his wages at the Sessions. *Cro. 177. a. nu. 23.*

Justices of Peace shall be paid their wages out of the fines and amerciaments of the same Sessions, and they ought to assesse the fines in the Court, and then the Clerk shall indent the estreats betwixt the Justices and the Sheriffe, and the Justices shall put their names thereto, to the end the Sheriffe may know to whom to pay wages, and levie the same to pay to the Justices, whereupon the Sheriffe shall be allowed the same upon his accompt in the Exchequer. 14 R.2.c.11. La. 628. Cro.177.a.nu.30.

Wainlings.

Any killing any wainling Calves under two years old to sell, lose 6. shil. 8. pence for every offence determinable at the Quarter Sessions. 24 H.8.cap.9. 1 Jac.cap.25. Lamb. 453, 607.

Wait-lying.

Lying in wait to maim or kill any other, is to be fined. Lam. 446

Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing. Dal. 336.

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties for their good behaviour. Dal. 336.

So

So upon affray, assault, threatening or any other breach of the Peace done in his presence, he may command the officer being present to arrest such offenders to finde surety for the Peace. *Dal.* 336.

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing. *Dal. ibid. Br. Peace* 7.

A warrant in writing must be under the Justices hand and seale, or under his hand at least. *Dal.* 336. *Lam.* 85, 88. But it is better if under seale. *Dal.* 337.

A warrant for the Peace or good behaviour must containe the speciall matter. *Dalt.* 336. *Lam.* 87. but it is better under his seale. *Dal.* 337.

A warrant for treason, murder or felony, or other capitall offence and such like, need not contain the special cause. *Cro.* 148. a. *Dal.* 337.

A warrant is better if it containe and bear the date at the place where it is made, the yeare and day when it was made. *Cro.* 174. a. *Dal. ibid. Lam.* 88.

Justice of Peace being out of the county, granteth his warrant to be served in the county; the officer must carry the party before some Justice of Peace within the county. *Dal. ibid. Lam.* 91.

The county written in the margent of the warrant, albeit it be not expressed in the warrant, and in *Com. predicto*, shall have relation to the county set in the margent. *Cro.* 102. b. nu. 29.

Justice of Peace may make his warrant to come

come before himselfe: yet upon a warrant for the Peace the usuall manner is otherwise. *Co. 5. 59. Dal. 170. & 338.*

In some cases a Justice of peace may grant his warrant to attach the offender to be at the next Sessions of the Peace, to answer his said offence. *Dal. 338.*

"Justice of Peace may grant his warrant
"against one that hath broken the Peace,
"or committed misdemeanors against the
"Peace, to find sureties for the Peace, or
"behaviour. *Da. 34, 162, 165, 338.*

Justices of Peace in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default: and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Justices, or any other Justice, &c. who finding cause to bind him, may bind him to the next Sessions to answer the said default. *Vide Dal. 338 & 160.*

Where the statute giveth authority to Justices of peace to cause another to doe a thing, they have power of congruity to grant their warrant to bring such persons before them, that so they may take order therein. *Quare Dal. 338.*

A Justice of Peace maketh a warrant beyond his authority, it is not disputable by Constable or other inferiour officer, but must be obeyed. *Lam. 65. Dal. 8, 242, 342.*

But if the Justice make a warrant to doe a thing out of his jurisdiction, or in a cause wherein he is not Judge; if the officer execute the

shew warrant, he is punishable. *Dal.* 342. *Cro.* 147.b. *Dal.* 8. *Lam.* 91, 92.

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a knowne officer. *Dal.* 340. *Cro.* 147.a. *Lam.* 88.

A sworne and knowne Officer need not to shew his warrant; but the servant of the Justice must shew it if it be required. *Dal.* *ibid.* *Lam.* 89. *Cro.* 148.a.

A warrant directed to the Constable, and to a stranger joyntly and severally, and executed solely by the stranger, is good. *Cro.* 147. b. *Dal.* 340.

Warrant directed to two joyntly to arrest another, may be executed by one of them. *Dal.* 340. *Lam.* 89.

“ A Just. of P. may make his warrant to the
 “ Sheriffe to attach one to bring him to the
 “ Sessions to find surety of the Peace. *Cro.*
 “ 136.a.

A warrant being directed by a Justice of Peace to the Sheriffe, he may by word command any sworne or knowne officer under him without precept in writing. *Dal.* 340. *Lam.* 89.

If a Justice of Peace his warrant be directed to the Sheriffs, Bailiffe, Constable, Justices servant, or other to arrest one, such person must serve it himselfe. *Lam.* 89. *Dal.* 340.

He to whom any warrant shall be directed, must do it with all secrecie and speed. *Dal.* *ib.*

A knowne officer must, if hee will not shew his warrant upon arrest, declare the
 con-

contents of his warrant. *Co. 6. 54. & 9. 68.*
Dal. 341.

Upon arrest in the Kings name, the party arrested ought to obey, *Dal. ibid.* for if hee have not lawfull warrant, the party grieved may have his action of false imprisonment. *Dal. ibid. Co. 9. 68.*

An officer arresting a man doth afterwards procure a warrant; this is a wrongfull arrest. *Dal. 341. Lam. 90, 91.*

The officer having a warrant for the peace, or good abearing, may break open the doors. *Dal. 341. Cro. 170. b.*

One is arrested, who upon promise to come againe is let goe, and cometh not againe; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit. *Dal. ibid. Br. Faux impr. 18.*

An officer having a lawfull warrant to arrest another, is resisted or assaulted by the party or any other person; the Officer may justifie the beating or hurting such person. *Dal. 341. Lam. 92.*

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, hee shall be indicted and fined; for it is the Kings proesse. *Dal. 342. Cro. 149. Quere,* whether he shall not be bound to his good behaviour. *Dal. ibid.*

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bind him to give evidence at the next gaole-delivery. *Dal. 342.*

Justice

“ Justice of peace is not to grant his warrant against an offender of a penall statute to appeare at the Sessions unlesse it be appointed by statute, but he ought first to be indicted. *Lam. 187. Dal. 339. Cro. 197. a. nu. 21.*

“ Justice of Peace cannot make a warrant to arrest a felon except he be indicted. *Cro. 147. b.* But *Dalton* argueth that a Justice of Peace may make such a Warrant. *Vide Dal. 339.*

“ One wrote to a Justice of Peace to send him a Warrant with a blank, to insert therein one whom he would attach for suspicion of felony. The Justice did so: And for that he sent his Warrant with a blanke, to put in a name which he knew not, nor the matter before the making of the warrant, he was fined in the Star-chamber. *Cro. Ju. risd. 34. a.*

“ All Warrants made in the Kings name, ought to be directed, To all Ministers as well within liberties as without. *Dalt. 355.*

“ Warrants may be made either 1 in the name of the King, Or 2 in the name of the Justice; and either of them must be testified by the Justice from whom they issue. Or 3 without stile by the subscription of the Justice. *Dal. 335.*

To what Officers Warrants are to be directed by particular statutes.

“ To the Churchwardens, for negligent
“ commers

"commers to Church, to levy 12.d. 3 *Jac. s. 4.*

"To the Constable or Churchwardens

"Against an Alehouse-keeper, to levy 10. s.

"for suffering tipling. 1 *Jac. c. 9.*

"To levy 20. shil. for breaking the Assise.

"1 *Jac. c. 9.*

"For selling Ale without license 20. shill.

"3 *Car. c. 4.*

"For tipling in an Alehouse 3. shill. 4.

"pence. 1 *Jac. c. 9.*

"For abuses on the Lords day. 1 *Car. c. 1.*

"For Carryers on the Lords day 20. shill.

"3 *Car. c. 1.*

"Shewing boots to sell on Sunday 3. shill.

"4.d. 1 *Iac. c. 22.*

"To the Constables, Churchwardens, or

"Overseers of the poore for swearing 12.d.

"21 *Jac. c. 20.*

"To the Constable or other inferiour

"officer for drunkenness 5. shil. 4 *Jac. c. 5.*

"21 *Jac. c. 7.*

Warreners, *vide* Forresters.

Watches.

Any Justice of Peace may cause night-watches to be kept for the arresting of night-walkers and persons suspect, be they strangers or others of evill fame. *Dal. 144. 13. E. 1. Stat. Winton c. 4.*

Watch is to be kept yearly from Ascension day till Michaelmas in every town, from sun setting to sun rising. *Dal. 144. Lam. 440.*

All strangers or persons suspected, passing
by

by the watching men, may be examined by them; and if there be cause of suspicion, they may stay them, and if they will not obey, may levie hue and cry, and may justifie to beat them, and may stock them till morning; and if they find no cause of suspicion, deliver them; but if they find cause, may deliver them to the Constable, to carry them before a Justice of Peace. *Dal.* 144, 300.

Any Justice of Peace may cause all night-walkers, strangers or other suspected, especially such as sleep in the day, and walk in the night, to be arrested, and such as in the night haunt any house suspected of bawdery, or use suspicious company, or commit other outrages or misdemeanours, and cause them to finde sureties for their good behaviour. *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unless he be an inhabitant in the towne. *Dal.* 145.

“Inhabitants are not compellable to watch
“at the will of the Constable, but when his
“turn cometh. *Dal. ibid.*

Watermen.

Every Justice of Peace within the shire next adjoyning to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the Watermen and Wherry-men, or two of them, or by the masters of any such servants, both to examine, heare and determine all offences against the statute, and set at large him that shall be imprisoned by the overseers and rulers,

Watermen.

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rulers, if there bee just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person. 2. & 3. Ph. & Mar. c. 16. Lam. 203. Dal. 145.

The offences against the statute are,

1 No single man shall bee a waterman.

1. Jac. c. 16.

2 One of the two rowing in one boate must be allowed by eight of the overseers by writing under seale.

3 They shall not hide themselves in time of pressing for the Kings service.

4 They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall. Dal. saith, *quære* whether the Justices of Peace be to meddle with this.

Wax.

One Justice of Peace may examine and search by his discretion such as doe sell any candles, or worke of wax above foure pence in the pound cleare gaine over the price of the Wax, and punish them by forfeiture of that which is to bee sold, and the value of that which is sold, and fine to the King.

Dal. 145. Lam. 196, 469. 11. H. 6. c. 12.

Weapons which be forcible,
Vide Forcible Entry.

R.

Weeres.

Weeres in rivers may bee surveyed by one Justice of Peace, which hee may cause to bee made of a reasonable widenesse. *Lam.* 189.

Any making Weeres within five miles of the mouth of any haven or creeke, or by weeres destroying any fric of fish of the sea, loseth 10. pound, one moiety to the King, the other to the informer. 3. *Jac.* c. 12. *Dal.* 56. explaineth the particulars of that stat. of 3. *Jac.* c. 12.

Weights and Measures.

Faults of the officers of Cities and Boroughs in not viewing & examining weights and measures twice a yeare, to be heard and determined by examination and enquiry of two Justices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers by other weights and measures than they ought to doe. 11. *H.* 7. c. 4. 12. *H.* 7. c. 5. *Lam.* 356. *Dal.* 146.

Two Justices of the Peace (one of the Quorum) may breake and burne such measures as they finde defective, and fine the offenders by their discretion, and make processe against them as in trespassse. 12. *H.* 7. c. 5. *Lam.* 356. *Dal.* 146. 11. *H.* 7. c. 4.

Mayors of townes taking above a penny for sealing a bushell or other measure, or for weights above a penny for an hundred, an halfe penny for halfe an hundred, a farthing for

Weights and Measures. 363

For a lesse weight, lose 40. s. 11. H. 7. c. 4.
Lam. 437. Dal. 155. 7. H. 7. c. 3.

Buying and selling by unlawfull weights or measures, or in any City or market, with any Weights or measures that are not lawfully marked or signed, he loseth for the first offence 6 shillings eight pence, for the second offence 13 shillings 4 pence, and for the third 20. shillings and Pillory. 11. H. 7. c. 4. *Lam. 460.*

To buy come by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with, the first offence is fixe shillings eight pence, the second 13 shillings 4. pence, the third 20. shill. and Pillory. 11. H. 7. c. 4. *Lam. 460. 15. R. 2. c. 4. Stat. de Pistoribus c. 8.*

Those of the towne where the Kings Standard is appointed to remaine, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced. 11. H. 7. c. 4. *Lam. 460. Dal. 155. vide alius Vessels.*

Witchcraft.

Invocation, Conjuratiō, consultation, covenant, intertainment, imployment, feeding or rewarding any evill spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charmes, or using any manner Witchcraft, whereby any person shall be killed or any part of them wasted

or lamed, and also the accessories, is felony without Clergy. 1. *Jac. c. 12. Lam. 415 Da. 280*

By Witchcraft or Charmes to finde out hidden treasures, to tell where lost goods shall be found, to provoke unlawfull love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one yeeres imprisonment without baile, and to stand in the Pillory sixe houres every quarter of the same yeere, and confesse his offence; the second is felony without Clergy. 1. *Jac. c. 12. Lam. 415.*

Tryall of Noblemen upon the stat. of 2. *Jac. c. 12.* of Witchcraft, is to bee by his Peeres. *Lam. 415.*

Attainder-upon the stat. 1. *Jac. c. 12.* of Witchcraft, neither losse of Dowre, nor corruption of Blood. 1. *Jac. c. 12. Lam. ibid.*

Wines.

Wines brought in strange bottomes from *France* into any part of *England*, except the Ile of *Man*, and *Wales*, forfeit the Wines. 27. *El. c. 12. Lam. 457.*

Any licensed to retaile wine, selling above the prices limited by Proclamation, lose 3. s. 4. d. for every Gallon. 27. *El. c. 11. Lam. 458. 5. El. c. 5.*

Any under a Barons sonne, or under 100. marks a yeere, or 1000. marks in goods, keeping to spend in his house any vessels of *Gascogne* wine, *French* or *Rochel* wine, above 10. gallons, loseth 10. pounds. 7. *E. 6. c. 5. La. 458.*

Wعاد.

Woad brought from *France* into any part of *England*, except the Isle of *Man* and *Wales* in a strange bottom, forfeiteth the Woad. 27. *El.c.11. Lam.457, 458.*

Wood.

Upon complaint of the Lord, and disagreement of the Lord and his commoners, the fourth part of the Lords wood may be set forth by two Justices, appointed by the greatest part of the Justices at their Sessions, and not being of kindred or alliance, or fee to the Lord, 35. *H.8.c.17.13. E.c.25. Lam.359.*

Just. in Qu. Sessions may call before them the owner of the wood, and 12 of the Commoners to set out the fourth part. *Lam.609.*

Ingrosser or Regrater of Barke, forfeiteth the Bark. 1. *Jac.22. Lam.452.*

Any selling of Oakes meet to be barked, before April, or after June, except for necessary building, as repairing of houses, ships, mills, lose the Oake, or double value. 1. *Jac.c.22.*

Purveyors taking Timber for the repayre of the Kings ships or houses, the owner may retain all the Barks lop and top, and the Purveyor taking them, loseth for every tree. 40. shillings to the party grieved. 1. *Jac.22. Lam.438.*

Wooll and Wooll-seller.

Buyer of Wooll of any other than the owner of the sheepe or tithe, lose the value. 1. *R.2.c.4. Lam.452.*

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Wooll and Wooll-seller.

Buyer of Wooll of any other than the owner of the sheepe or tithe, lose the value. 1. *R. 2.c.4. Lam. 452.*

Buyer of Woollen-yarne, and not making it into cloth, loseth the value thereof. 8. H. 6. Lam. 452

Any sorter, carder, kember, spinster, weaver, receiving wooll and yarne of a clothier or maker of stuffe, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witness before two Justices of Peace, is to make such recompence to the party, as the Justice shall appoint: and the offender being unable and refusing to doe it, is to bee whipt or stocked. 7. Jac. 7. c. 7.

Women.

Women arraigned for felony, may only for one time have the benefit of their belly. Lam. 563.

Just. of Peace cannot award a *Venire facias tot matronas*, to know whether a Woman felon be with child. Lam. 551.

Taking away a woman against her will that hath land, &c. or is heire apparent, not claiming her as ward, and after marry or deflower her, is felony without Clergy. So of the procurers, abettors and receivers knowing thereof. 3. H. 7. c. 2. Lam. 421.

A woman being delivered of a Bastard-child, and borne alive, that endeavoureth privately by drowning, secret burning, or other way by her selfe, or procuring of other,

to conceale the death thereof, as that it may
not come to light whether it were borne
alive or dead, shall suffer as in murder, ex-
cept the can prove by one witnesse that the
wilde was borne dead. 21. *Jac.* 27.

Women convicted of felonious taking
above 12. d. and under 10. s. being not Bur-
gary or Robbery in or neare any high way,
or taking of money, goods, or chattels from
the person of any, privily or as accessary to any
such offence, wherein a man may have his
clergy, shall for the first offence be burned
in the hand and further imprisoned, whipped,
and stocked, or sent to the house of Corre-
ction (not above a yeere) as the Justices be-
fore whom the conviction is, shall thinke
meet. 21. *Jac.* 6. *Dal.* 272. 273.

Wife and her husband are bound to ap-
peare at the Sessions, and in the meane time
to keepe the peace. The husband only appea-
ring, the Recognizance is not forfeited.
Dal. 179. *Quere tamen.* *Cro.* 144. b,

FINIS.

1011, 70-11

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